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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable RAND PAUL, a Senator from the Commonwealth of Kentucky.

PRAYER

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

Let us pray.

O Lord, our rock, hear our praise today, for Your faithfulness endures to all generations. You hear our prayers and surround us with Your mercy. You are our strength and our shield. Listen to the melody of our gratitude, for You are the center of our joy.

Lord, thank You for illuminating our paths with Your precepts, dispelling the darkness of doubt and fear. Today, guide our lawmakers. Be their shepherd in these dangerous times. Give them eyes to see that You have not left Yourself without a witness in every living thing. Help them, Lord, to walk with reverence and sensitivity through all the days of their lives.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. HATCH).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 20, 2015.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RAND PAUL, a Senator from the Commonwealth of Kentucky, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

Mr. PAUL thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

JUSTICE FOR VICTIMS OF TRAFFICKING ACT

Mr. MCCONNELL. Mr. President, yesterday's House passage of the Justice for Victims of Trafficking Act represents a vital ray of hope for the countless victims of modern slavery who need our help. Victims groups and advocates tell us that this human rights legislation would provide unprecedented support to domestic victims of trafficking. They urged Congress to pass it.

We can now say that we have passed it. We can now say that hope is on the way for the victims who suffer in the shadows. Unfortunately, the victims of modern-day slavery had to wait entirely too long for help.

Last Congress, the House of Representatives did its job by passing several pieces of legislation, but the Senate failed to bring any trafficking legislation to the floor.

As a new majority, Senate Republicans were determined to make this matter a priority. Senator GRASSLEY promptly reported legislation out of the Judiciary Committee, and we quickly put it on the Senate floor.

As we all know by now, there was an unforeseen—to put it mildly—impediment to getting this bill done. But we were determined to see this legislation through to successful completion. Success was possible because the new majority kept its focus on facts, substance, and good policy for the people who remained our focus throughout the debate, and that is the victims of modern slavery.

I could not be more grateful to Senator CORNYN for his outstanding work on this issue. I thank the House for passing such an important human rights bill yesterday. Now I urge the President to sign this legislation from the new Congress as quickly as possible. The victims of such terrible abuse have had to wait entirely too long for Washington's help. Let's not make them wait a moment longer.

TRADE

Mr. MCCONNELL. Mr. President, yesterday Senator WARNER, a Democrat, and Senator ERNST, a Republican, joined me in hosting a press conference with small business owners on the benefits of trade for entrepreneurs. I want to thank them both for coming. I thank Senator WARNER, in particular, for helping to lead his party on this issue.

We were joined by small business owners with some pretty incredible stories. These Americans highlighted opportunities that knocking down unfair overseas barriers to American products can provide to us here at home.

My favorite, obviously, was Chase Robbins, a constituent of mine from Shelbyville. After Chase was medically discharged from the Army, he was able to scrape together $1,600 with a buddy and start the kind of business he had already dreamed of as early as 2010. It is a business that specializes in just the kind of thing you would expect a young guy such as Chase to be into—high-performance auto parts. And, thanks to trade, it is now both a business that exports a percentage of its products and one that also employs fellow Kentuckians.

His is a small business with just three employees for now—just three for

now—but it is a small business that is allowing him to live his dreams and to help others live theirs, too. It is a story countless other Americans know all too well and one we should do everything to encourage. Yet, while Chase has achieved success thanks to trade, he knows there is still a lot more we should be doing if the aim is to help businesses grow, help his employees earn more, and help other Kentuckians live their dreams too.

Here is what Chase said yesterday:

As our business has grown internationally, we have been confronted with barriers that compromise global markets. It was not long after sending our first shipment overseas that we realized trade rules were outdated for our business. Most of the agreements and rules were written before small businesses like ours were able to fully utilize the internet to exploit the global market. Trade agreements offer the best chance to lower barriers and increase market access for small companies like mine. We see a bright future for . . . companies like ours in the export market but we need new trade deals to get there.

And this, Mr. President, is a business with three employees that is exporting products.

So here was Chase's solution: ''Trade Promotion Authority is the first step towards modernizing trade agreements,'' he said, ''and I encourage Congress to pass TPA as soon as possible.''

Entrepreneurs such as Chase know that the United States does not have many trade barriers, but other countries do. They know that many of these barriers are extremely unfair to American workers and American products. They know that passing trade promotion authority is the way to address such an unfair situation.

Our friends on the far left may try to cynically spin their war against the future of something other than what it truly is, but we all know better. It is no wonder President Obama has called them ''wrong'' and suggested that they make stuff up. What happens if the far left actually succeeds in its apparent quest to retain foreign tariffs that unfairly impact American workers and their paychecks? How is that good for us?

It would mean lost opportunities for American risk takers such as Chase and the employees who entrepreneurs such as him care about. It would mean lost opportunities for American manufacturers, lost opportunities for Kentucky farmers, and lost opportunities for more jobs, better wages, and a growing economy that can lift everyone up.

Jobs and a better economy are the kinds of things I am going to continue to fight for. I think the legislation before us represents a great opportunity to do so. President Obama agrees, as well. So I am going to keep working to get votes on amendments—both Republican and Democrat amendments.

There have been objections from the other side of the aisle. I would remind our colleagues that even with my strong support, the Senate cannot have a robust amendment process if every single amendment offered by Democrats or Republicans is objected to by our friends on the other side.

Our bill managers, Senator HATCH and Senator WYDEN, are working hard. We hope to get past these objections so that more amendments can be considered. But we will need cooperation. The Senate cannot vote on amendments that are being prevented.

We hope to see more of that cooperation so we can pass good, fair, and enforceable trade legislation that will benefit our country and so many of the people we represent.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

ISSUES FACING THE MIDDLE CLASS

Mr. REID. Mr. President, at the end of this month, Republicans will have been in charge of the Senate for almost half a year. After all of this time, what have they done to address issues facing the middle class? Zero.

Let's take a quick look at what the Republican leadership has achieved this year. The Keystone Pipeline legislation took a month, a bill that was nothing more than a favor for billionaires and special interests. It would allow foreign oil to be imported into the United States to be shipped to foreign countries. It has spent almost another month on the shutdown of the Department of Homeland Security—the shutdown of the Department of Homeland Security—during a time when ISIS is raging and all the other problems around the world, and they—the Republicans—want to shut down the Federal Government as it relates to Homeland Security.

We spent 3 weeks on a senseless delay over funding for victims of human trafficking, over an abortion issue that had nothing to do with human trafficking. I would respond to my friend, the majority leader, we would have passed this last Congress, except that they objected to it—short memory, I think.

Now, here we are spending the last week considering trade legislation that has done nothing—nothing, not a single thing—to help working middle-class Americans. In fact, it causes huge job losses. As Einstein said, if you keep doing the same thing over and over again and you expect a different result, that is the definition of insanity.

We can look at these trade bills over the years. Every one of them, without exception, causes job losses to American workers, millions of job losses. Yet they are going to try the same thing again and hope for a different result. That is insanity.

If the Senate is not actively advocating for the well-being of middle-class Americans, we are wasting our time. When the Republicans took over the Senate, the majority leader promised to make the needs of Americans a priority. Here is what he said last November: ''Under a new majority, our focus would be on passing legislation that improves the economy, that makes it easier for Americans to find jobs, and that helps restore Americans' confidence in their country and their government.''

Why then have we not moved toward legislation that makes it easier for Americans to find jobs or reforms that help us restore Americans' confidence in their government?

A few months after November—actually the beginning of this year—the majority leader reiterated a call for commonsense legislation that puts the middle class first. He said: ''Let's pass legislation that focuses on jobs and the real concerns of the middle class.''

But, again, what have the Senate Republicans done? They have stopped any effort made to help the middle class, whether it is minimum wage, equal pay for men and women, student debt, and on and on with things that would help the middle class. They have been ignored. We should be focusing on making it easier for Americans to find jobs, addressing the needs of the middle class and restoring Americans' faith in our government.

It is not enough for the majority leader to mouth these words that he supports jobs. His agenda must reflect it, as well. But it does not. It does not do anything to help job creation. If we want to create jobs, why don't we do something with infrastructure, the surface transportation bill?

To his credit, the Presiding Officer has an idea regarding how that should be paid for. I have worked with him and, whether his idea and my idea are perfect, at least it is an effort to figure out some way to do something about jobs. Jobs—we have to do something about surface transportation. Some 50 percent of America's roads are in disrepair, and 64,000 bridges are structurally deficient. Our railroad systems are outdated, and we know that recently from the headlines we have seen with that devastating accident in Pennsylvania. Instead of working with Democrats to provide adequate, long-term investment into our country's surface transportation, Republicans are advocating for short-term fix after short-term fix.

Repairing our Nation's roads and bridges through long-term investments could provide thousands of jobs for Americans. If the Republican leader truly has the interests of the middle class at heart, he should be leading the charge for these investments, but he is leading the charge against them.

Today, the Senate will resume consideration of the trade legislation. Because of Senate Democrats, that trade legislation includes vital programs that help America's workers retrain and find new employment if they lose their jobs because of foreign trade. And

they are going to lose jobs. Even though a majority of the Senators don't support this trade legislation, we have tried hard to improve it, and this trade adjustment assistance is one way we can try to improve it.

What was the Republican's first amendment to the trade bill? It was an amendment to strike a program known as trade adjustment assistance, which I just talked about, from the bill. This program helps those who lose their jobs because of trade. And they will lose their jobs.

As we talk about opening foreign markets to American products, surely we should do something so that American companies have the tools to compete internationally.

The Export-Import Bank is weeks away from expiring. If it expires, financing for billions of dollars of U.S. exports will disappear and thousands of American jobs will be in jeopardy. How much does it cost? Nothing. Zero. It is an ideological mindset that the Republicans have—they don't like government programs.

We are losing internationally. We are losing trade. I don't think anyone can call the Boeing Company a leftwing liberal group, as the Republican leader refers to people who are complaining about what is going on here. Boeing thinks something should be done with the Export-Import Bank. Why? Because they can compete with Airbus and all of these other companies that build airplanes. If we don't have the Bank, they cannot compete.

Mr. President, I could pick any State of the 50—I was given here this morning the State of Virginia because the State of Virginia was mentioned in some of the remarks by the Republican leader. I have page after page—millions and millions of dollars that benefit businesses in Virginia. It is the same all over the country—in Nevada, Kentucky, everyplace.

We have talked about trade that won't work. Let's talk about the Export-Import Bank, which does work. I so admire and appreciate the persistence and advocacy of the Senator from Washington, Ms. CANTWELL. But for her, this issue would be lost. It would be gone with all the other stuff that goes into the trash can because of the Republicans.

The Republican leader has said over and over again that he is opposed to the Bank. Well, that is too bad. The American people certainly support it and American businesses support it. Last year, this vital program sustained 165,000 jobs at no cost to the taxpayers. If we don't reauthorize this program, American businesses will be at a competitive disadvantage.

While the majority leader talks about restoring faith in government, he is standing in the way of reforming the National Security Agency's illegal spying program. I did not make up the words ''illegal spying program''; the Second Circuit Court said it. It is an illegal program.

These are just a few areas where renewed focus would create jobs and produce positive outcomes for middle-class Americans. The Republican leader should revisit his vision, which up to this point has only been words. There has been no action. The direction this Congress has taken so far has only focused on the desires of a few at the expense of many.

Mr. President, I ask unanimous consent that the numbers I referred to from the State of Virginia be printed in the RECORD.

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

VIRGINIA COMPANIES FINANCED BY EX-IM BANK FY07–FY15

Source: Public Information; Ex–Im Bank Web Site

Exporter	City	District	Product	Total insured shipments, guaranteed credit or disbursed loan amount	Total exp value
Abb Inc.	South Boston	05	Electrical Equipment Manufacturing and Sales	$97,428	$175,030
Aeroprobe Corporation	Christiansburg	09	Professional, Scientific and Technical Services	$24,960	$24,960
Alainn Llc	Arlington	08	Administrative, Management and Support Services	$285,008	$285,008
Alfa Laval Thermal Inc	Richmond	03	Fabricated Metal Product Manufacturing and Sales	$327,015	$397,159
All American Business Consulting Llc	Chantilly	10	Other Misc Mfg and Sales of Non Capital Equipment	$93,760	$93,760
Alliant Techsystems Operations, Inc	Radford	02	Fabricated Metal Product Manufacturing and Sales	$128,303	$128,303
Alpha Coal Sales Co., Llc	Bristol	09	Ore & Mineral Mining and Sales	$212,393,085	$212,393,085
Altum, Incorporated	Reston	11	Professional, Scientific and Technical Services	$854,933	$854,933
American Biosystems, Inc.	Roanoke	06	Chemical Manufacturing and Sales	$1,734,990	$1,734,990
American Hardwood Industries, Llc	Waynesboro	06	Wood Product Manufacturing and Sales	$18,000,000	$60,000,000
American Hofmann Corporation	Lynchburg	06	Machinery Manufacturing and Sales	$44,728	$44,728
Amscoglobal Llc	Vienna	11	Machinery Manufacturing and Sales	$192,236	$192,236
Aon International Space Brokers	Rosslyn	08	Insurance	$20,592,935	$24,169,936
Aon International Space Brokers	Rosslyn	08	Insurance	$20,339,686	$23,310,434
Aquamatic Inc	Roanoke	09	Electrical Equipment Manufacturing and Sales	$66,129	$66,129
Augusta Lumber, Llc	Waynesboro	06	Wood Product Manufacturing and Sales	$278,849	$278,849
Bakery Holdings Llc	Richmond	03	Machinery Manufacturing and Sales	$3,600,000	$14,000,000
Banner Aerospace Holding Company, Inc.	McLean	11	Transportation Equipment Manufacturing and Sales	$16,200,000	$72,000,000
Banner Aerospace, Inc.	Ashburn	10	Transportation Equipment Manufacturing and Sales	$13,500,000	$40,000,000
Beach Mold & Tool Virginia, Inc.	Emporia	04	Machinery Manufacturing and Sales	$65,225	$65,225
Birdsong Peanuts	Suffolk	04	Crop Production and Sales	$669,955	$669,955
Blue Ridge Mountain Resources, Llc	Charlottesville	05	Wood Product Manufacturing and Sales	$128,960	$128,960
Blue Ridge Numerics Inc	Charlottesville	05	Professional, Scientific and Technical Services	$450,000	$4,250,000
Bone Doctors' Bbq, Llc	Charlottesville	05	Food Manufacturing and Sales	$45,158	$45,158
Bontex, Inc	Buena Vista	06	Chemical Manufacturing and Sales	$6,748,307	$6,748,307
Boss Lumber Corporation	Galax	09	Wood Product Manufacturing and Sales	$72,936	$72,936
Brg Machinery Consulting	Charlottesville	05	Administrative, Management and Support Services	$59,219	$98,625
Bristol Compressors International, Inc.	Bristol	09	Machinery Manufacturing and Sales	$162,000,000	$250,000,000
Cableform Incorporated	Troy	07	Electrical Equipment Manufacturing and Sales	$7,091,630	$7,091,630
Cadence, Inc.	Staunton	06	Other Misc Mfg and Sales of Non Capital Equipment	$5,553,034	$5,553,034
Campofrio Food Group America Inc	South Chesterfield	04	Food Manufacturing and Sales	$4,713,286	$4,713,286
Catoctin Creek Distilling Co, Llc	Purcellville	18	Beverage and Tobacco Product Mfg and Sales	$35,741	$35,741
Commercial Lynks Inc.	Alexandria	08	Food Manufacturing and Sales	$50,357,430	$83,947,430
Delta Star, Inc	Lynchburg	06	Electrical Equipment Manufacturing and Sales	$106,705	$2,022,564
Dexter W Estes	Lyndhurst	06	Machinery Manufacturing and Sales	$10,062	$10,062
Dupont Teijin Films	Chester	04	Plastics and Rubber Products Mfg and Sales	$245,813	$245,813
Dupont Teijin Films	Hopewell	04	Plastics and Rubber Products Mfg and Sales	$373,931	$373,931
Dupont Teijin Films	Hopewell	04	Plastics and Rubber Products Mfg and Sales	$297,603	$297,603
Eagle Paper International, Inc.	Virginia Beach	02	Paper Manufacturing and Sales	$43,116,377	$43,116,377
Earthwalk Communications Inc.	Manassas	10	Other Misc Mfg and Sales of Non Capital Equipment	$1,192	$1,192
East Coast Impex, Llc	Manassas	01	Crop Production and Sales	$1,129,413	$1,129,413
Ekpac China Inc.	Arlington	08	Other Service Providers	$18,179,979	$21,388,210
Erath Veneer Corporation of Virginia	Rocky Mount	05	Wood Product Manufacturing and Sales	$10,443,221	$10,443,221
F R Drake Company	Waynesboro	06	Machinery Manufacturing and Sales	$303,025	$356,500
Federal Pacific Transformer Company	Bristol	09	Electrical Equipment Manufacturing and Sales	$55,248	$55,248
Ferguson Enterprises, Inc.	Newport News	02	Fabricated Metal Product Manufacturing and Sales	$4,269,751	$5,441,608
Fitzgerald Lumber & Log Co., Inc.	Buena Vista	06	Wood Product Manufacturing and Sales	$11,464,695	$11,464,695
Fleshner & Kim Llp	Herndon	11	Judicial Systems and Public Safety Institutions	$900,000	$3,000,000
Flowserve Corporation	Chesapeake	04	Machinery Manufacturing and Sales	$5,733,476	$7,267,029
Foley Material Handling Co., Inc	Ashland	07	Machinery Manufacturing and Sales	$2,160,000	$6,000,000
Freightcar America	Roanoke	06	Machinery Manufacturing and Sales	$2,842,665	$3,326,300
Gala Industries, Inc.	Eagle Rock	06	Machinery Manufacturing and Sales	$238,145	$279,810
Gatekeeper, Inc.	Sterling	10	Electrical Equipment Manufacturing and Sales	$2,464,016	$2,464,016
GeoScienceWorld	Arlington	08	Professional, Scientific and Technical Services	$27,797	$49,118
Gigamedia Access Corporation	Herndon	11	Internet Content & Service Providers	$810,000	$1,000,000
Global Food Connection, Inc.	Danville	05	Food Manufacturing and Sales	$16,685,410	$16,685,410
Good Harbor Consulting, L.L.C.	Arlington	08	Administrative, Management and Support Services	$3,500,000	$3,500,000
Group Logic Inc.	Arlington	08	Professional, Scientific and Technical Services	$4,928,867	$4,928,867
H Y International Corporation	Great Falls	10	Wood Product Manufacturing and Sales	$12,224,288	$12,224,288
H2gen Innovations, Inc.	Alexandria	08	Electrical Equipment Manufacturing and Sales	$3,600,000	$12,000,000

VIRGINIA COMPANIES FINANCED BY EX-IM BANK FY07–FY15—Continued

Source: Public Information; Ex–Im Bank Web Site

Exporter	City	District	Product	Total insured shipments, guaranteed credit or disbursed loan amount	Total exp value
Harris Corporation	Lynchburg	06	Other Misc Mfg and Sales of Non Capital Equipment	$3,050,149	$3,588,411
Honeywell International Inc.	Hopewell	04	Machinery Manufacturing and Sales	$44,542,810	$44,542,810
Independent Project Analysis	Ashburn	10	Professional, Scientific and Technical Services	$1,179,672	$2,053,027
Integrated Global Services, Inc.	Midlothian	07	Fabricated Metal Product Manufacturing and Sales	$2,250,000	$7,000,000
International Intranco Inc.	McLean	11	Food Manufacturing and Sales	$58,058	$58,058
International Veneer Company, Inc.	South Hill	05	Wood Product Manufacturing and Sales	$35,204	$35,204
Interstate Resources, Inc.	Arlington	08	Paper Manufacturing and Sales	$47,450,946	$47,450,946
Intertape Polymer Corp.	Danville	05	Textile Mills, Products and Sales	$219,378	$219,378
K2m, Inc.	Leesburg	10	Other Misc Mfg and Sales of Non Capital Equipment	$45,000,000	$68,000,000
Longwall Associates, Inc	Chilhowie	09	Machinery Manufacturing and Sales	$4,649,120	$5,240,000
M.I.C. Industries, Inc.	Reston	11	Building Construction	$4,485,411	$4,485,411
Maersk Line, Limited	Norfolk	03	Transportation Services	$4,208,610	$5,665,164
Meadwestvaco Corporation	Richmond	03	Paper Manufacturing and Sales	$10,906,229	$10,906,229
Meadwestvaco Corporation	Glen Allen	07	Paper Manufacturing and Sales	$25,531,495	$25,531,495
Microxact, Inc.	Blacksburg	09	Other Misc Mfg and Sales of Non Capital Equipment	$282,699	$282,699
Mitsubishi Plastics Composites America, Inc	Chesapeake	04	Electrical Equipment Manufacturing and Sales	$70,559,724	$70,559,724
Monoflo International, Inc	Winchester	10	Plastics and Rubber Products Mfg and Sales	$192,596	$192,596
Moog Inc	Blacksburg	26	Other Misc Mfg and Sales of Non Capital Equipment	$64,749	$74,448
Mountain Lumber Co, Inc	Ruckersville	05	Wood Product Manufacturing and Sales	$108,000	$108,000
Mpri, Inc.	Alexandria	08	Electrical Equipment Manufacturing and Sales	$5,687,287	$5,687,287
Musser Lumber Company, Inc.	Rural Retreat	09	Wood Product Manufacturing and Sales	$500,052	$500,052
New River Energetics	Radford	09	Chemical Manufacturing and Sales	$464,493	$464,493
Ngk-Locke Polymer Insulators	Virginia Beach	02	Nonmetallic Mineral Product Mfg and Sales	$353,142	$404,420
Ofic North America Inc	Fredericksburg	07	Petroleum and Coal Products Mfg and Sales	$7,092,241	$7,092,241
Ontario Hardwood Company, Inc.	Keysville	05	Wood Product Manufacturing and Sales	$978,099	$978,099
Optical Cable Corporation	Roanoke	09	Electrical Equipment Manufacturing and Sales	$45,125,589	$45,125,589
Orbital Sciences Corporation	Dulles	10	Transportation Equipment Manufacturing and Sales	$198,098,585	$221,843,173
Pipeline Research Council International	Falls Church	11	Professional, Scientific and Technical Services	$115,189	$215,694
Potomac Supply Corporation	Kinsale	01	Wood Product Manufacturing and Sales	$4,549,757	$4,549,757
Potomac Supply Llc	Kinsale	01	Wood Product Manufacturing and Sales	$2,279,798	$2,279,798
Qmt Associates, Inc.	Manassas Park	10	Other Misc Mfg and Sales of Non Capital Equipment	$774,329	$774,329
QubicaAMF Worldwide	Mechanicsville	07	Other Misc Mfg and Sales of Non Capital Equipment	$1,036,184	$1,093,397
Questel-Orbit, Incorporated	Alexandria	08	Internet Content & Service Providers	$3,482	$6,121
Reynolds Consumer Products Inc	Richmond	07	Plastics and Rubber Products Mfg and Sales	$11,134,393	$11,134,393
Rock Tools Inc.	Bristol	08	Not Identified	$1,950,000	$1,950,000
Rowe Fine Furniture Inc	Elliston	09	Furniture Manufacturing and Sales	$6,637,470	$6,637,470
Rubatex International Llc	Bedford	05	Plastics and Rubber Products Mfg and Sales	$97,118	$97,118
Sena Mining Products Llc	Alexandria	08	Administrative, Management and Support Services	$347,452	$347,452
Sherr & Jiang Pllc	Herndon	11	Professional, Scientific and Technical Services	$30,324	$30,324
Sherr & Vaughn, Pllc	Herndon	11	Professional, Scientific and Technical Services	$4,301,139	$4,301,139
Simplimatic Engineering Holdings, Llc	Evington	05	Machinery Manufacturing and Sales	$7,496,797	$7,496,797
Spectra Quest, Inc.	Richmond	07	Machinery Manufacturing and Sales	$24,204	$42,308
Strongwell Corporation	Bristol	09	Plastics and Rubber Products Mfg and Sales	$2,156	$2,733
Sutron Corporation	Sterling	10	Other Misc Mfg and Sales of Non Capital Equipment	$738,000	$750,000
Team Askin Technologies, Inc.	Fairfax	10	Professional, Scientific and Technical Services	$31,749,708	$90,227,708
Telarix, Inc.	Vienna	11	Internet Content & Service Providers	$39,150,000	$144,767,956
Test Dynamics Inc	Warrenton	05	Electrical Equipment Manufacturing and Sales	$68,369	$68,369
Tetra Tech, Inc.	Fairfax	11	Administrative, Management and Support Services	$18,069,977	$25,648,305
Thomas & Betts Corporation	Richmond	03	Electrical Equipment Manufacturing and Sales	$473,944	$473,944
Transprint Usa, Inc	Harrisonburg	06	Administrative, Management and Support Services	$14,812,918	$14,812,918
Tread Corporation	Roanoke	06	Fabricated Metal Product Manufacturing and Sales	$38,302,375	$93,588,729
Trex Company, Inc.	Winchester	10	Plastics and Rubber Products Mfg and Sales	$39,143	$39,143
Trinity Scientific, L.P.	Sandston	03	Other Misc Mfg and Sales of Non Capital Equipment	$269,567	$269,567
Turkey Knob Growers, Inc.	Timberville	06	Crop Production and Sales	$851,672	$851,672
Turman-mercer Sawmills, Inc.	Hillsville	09	Specialty Trade Contractors	$2,297,171	$2,297,171
Universal Dynamics, Inc.	Woodbridge	11	Machinery Manufacturing and Sales	$3,201	$3,201
Us Cosmeceutechs, Llc	North Chesterfield	04	Chemical Manufacturing and Sales	$4,905,000	$7,000,000
Usa Hardwoods Llc	Winchester	10	Administrative, Management and Support Services	$172,076	$172,076
Virginia Transformer Corp	Roanoke	06	Electrical Equipment Manufacturing and Sales	$1,810,428	$2,566,663
Vt Idirect, Inc.	Herndon	11	Telecommunication Services	$1,552,092	$1,552,092
Williams & Lu Llc	Alexandria	08	Professional, Scientific and Technical Services	$70,851	$70,851
Zamma Corporation	Orange	07	Furniture Manufacturing and Sales	$3,185,044	$3,185,044
Zenith Aviation, Inc.	Fredericksburg	01	Transportation Equipment Manufacturing and Sales	$209,024	$209,024

Mr. REID. Will the Chair be kind enough to tell us what the business is today in the Senate?

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ENSURING TAX EXEMPT ORGANIZATIONS THE RIGHT TO APPEAL ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1314, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1314) to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.

Pending:

Hatch amendment No. 1221, in the nature of a substitute.

Hatch (for Flake) amendment No. 1243 (to amendment No. 1221), to strike the extension of the trade adjustment assistance program.

Hatch (for Inhofe/Coons) modified amendment No. 1312 (to amendment No. 1221), to amend the African Growth and Opportunity Act to require the development of a plan for each sub-Saharan African country for negotiating and entering into free trade agreements.

Hatch (for McCain) amendment No. 1226 (to amendment No. 1221), to repeal a duplicative inspection and grading program.

Stabenow (for Portman) amendment No. 1299 (to amendment No. 1221), to make it a principal negotiating objective of the United States to address currency manipulation in trade agreements.

Brown amendment No. 1251 (to amendment No. 1221), to require the approval of Congress before additional countries may join the Trans-Pacific Partnership Agreement.

Wyden (for Shaheen) amendment No. 1227 (to amendment No. 1221), to make trade agreements work for small businesses.

Wyden (for Warren) amendment No. 1327 (to amendment No. 1221), to prohibit the application of the trade authorities procedures to an implementing bill submitted with respect to a trade agreement that includes investor-state dispute settlement.

Hatch modified amendment No. 1411 (to the language proposed to be stricken by amendment No. 1299), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to take some time today to talk about proposals to include a currency manipulation negotiating objective in trade negotiations and the impact this issue is having on the debate over renewing trade promotion authority, or TPA.

Currency manipulation has, for many, become the primary issue in the TPA debate. It has certainly gotten the focus of the media and other outside observers. Indeed, I suspect that everyone who has an interest in the outcome of the TPA debate—both for and against—is watching closely to see how the Senate will address this particular matter.

Let me begin by saying that I recognize the frustrations many have regarding exchange rate policies of some of our trading partners, and I have committed to working with my colleagues to arrive at ways to improve currency surveillance and mechanisms

for responding to problems. However, I want to be as plain as I can on this issue. While currency manipulation is an important issue, it is inappropriate and counterproductive to try to solve this problem solely through free-trade agreements.

Nonetheless, I do not believe we should ignore currency manipulation, which is why, for the very first time, our TPA bill would elevate currency practices to a principal negotiation objective. Now, let's get that. For the first time in any trade bill, we elevate currency practices to a principal negotiation objective. We thought that would solve the problem. It means that if the administration fails to make progress in achieving this or any other objectives laid out in the bill, then the relevant trade agreement is subject to a procedural disapproval resolution and other mechanisms that would remove procedural protections.

Of course, I understand that a number of my colleagues want to see more prescriptive language which would limit the range of tools available and require that trade sanctions be used to keep monetary policies in line.

Most notably, we have the Portman-Stabenow amendment, which would create a negotiating objective requiring enforceable currency standards among parties to a trade agreement. The amendment goes on to say that these standards must be subject to the same dispute settlement procedures and remedies as all other elements of the trade agreement. While this approach may sound reasonable on the surface, there are a number of very serious and complex policy issues to consider. I will address those specific concerns in some detail in just a few minutes, but first I think we need to step back and take a look at the big picture.

I think I can boil this very complicated issue down to a single point: The Portman-Stabenow amendment will kill TPA. I am not just saying that; it is at this point a verifiable fact.

Yesterday, I received a letter from Treasury Secretary Lew outlining the Obama administration's opposition to this amendment. The letter addresses a number of issues, some of which I will discuss later, but most importantly, at the end of the letter, Secretary Lew stated very plainly that he would recommend that the President veto a TPA bill that included this amendment. That is pretty clear. It doesn't leave much room for interpretation or speculation. No TPA bill that contains the language of the Portman-Stabenow amendment stands a chance of becoming law.

I want to be clear. I have great respect for the authors of this amendment. They are my friends, and I believe they are well-intentioned. They have spent a lot of time making their case on their amendment, and I respect their points of view. But at this point, it is difficult—very difficult, in fact—for anyone in this Chamber to claim they support TPA and still vote in favor of the Portman-Stabenow amendment. The two, as of yesterday, have officially become mutually exclusive.

For me, this issue is pretty cut and dry. However, I do recognize that perhaps not everyone will view these developments the same way I do. But regardless of what anyone may think of Secretary Lew's letter, the Portman-Stabenow amendment raises enough substantive policy concerns to warrant opposition on its own.

Offhand, I can think of four separate consequences we would run into if the Senate were to adopt this amendment, and all of them would have a negative impact on U.S. economic interests.

First, the Portman-Stabenow negotiating objective would put the Trans-Pacific Partnership—or TPP—Agreement at grave risk, meaning that our farmers, ranchers, and manufacturers, not to mention the workers they employ, would not get access to these important foreign markets, resulting in fewer good, high-paying jobs for American workers, and I should say higher paying jobs at that.

We know this is the case. Virtually all of our major negotiating partners—most notably Japan—have already made clear that they will not agree to an enforceable provision like the one required by the Portman-Stabenow amendment. No country I am aware of, including the United States, has ever shown the willingness to have their monetary policies subject to potential trade sanctions.

Adopting this amendment will have, at best, an immediate chilling effect on the TPP negotiations, and at worst, it will stop them in their tracks. If you don't believe me, then take a look at the letter we received from 26 leading food and agricultural organizations, from the American Farm Bureau, to the National Pork Producers Council, to the Western Growers Association, urging Congress to reject the Portman-Stabenow amendment because it will, in their words, ''most likely kill the TPP negotiations.''

Put simply, not only will this amendment kill TPA, it will very likely kill TPP—the Trans-Pacific Partnership—as well.

Second, the Portman-Stabenow amendment would put at risk the Federal Reserve's independence in its ability to formulate and execute monetary policies designed to protect and stabilize the U.S. economy. While some in this Chamber have made decrees that our domestic monetary policies do not constitute currency manipulation, we know that not all of our trading partners see it that way.

Requiring the inclusion of enforceable rules on currency manipulation and subsequent trade sanctions in our free-trade agreements would provide other countries with a template for targeting U.S. monetary policies, subjecting our own agencies and policies to trade disputes and adjudication in international trade tribunals.

We have already heard accusations in international commentaries by foreign finance ministers and central bankers that our own Fed—Federal Reserve, that is—has manipulated the value of the dollar to gain trade advantage. If the Portman-Stabenow amendment is adopted into TPA and these rules become part of our trade agreements, how long do you think it will take for our trading partners to enter disputes and seek remedies against Federal Reserve quantitative easing policies? Not long, I would imagine.

If the Portman-Stabenow amendment objective becomes part of our trade agreements, we will undoubtedly see formal actions to impose sanctions on U.S. trade under the guise that the Federal Reserve has manipulated our currency for trade advantage. We will also be hearing from other countries that Fed policy is causing instability in their financial markets and economies, and unless the Fed takes a different path, those countries could argue for relief or justify their own exchange rate policies to gain some trade advantage for themselves.

While we may not agree with those allegations, the point is that under the Portman-Stabenow formulation, judgments and verdicts on our policies will be taken out of our hands and, rather, can be rendered by international trade tribunals. I don't know anybody who really wants that.

I am well aware that in an attempt to address this concern, the latest version of the Portman-Stabenow amendment states that their enforceable rules do not apply to ''the exercise of domestic monetary policy.'' But for those of us living here in the United States, that clarification does not provide much comfort. After all, the U.S. dollar is the global currency—that is, currently the global currency. If we fail to pass this bill—we have already seen China start to move toward having the yuan become the global currency. I will say again that the U.S. dollar is a global currency. In fact, it is the primary reserve currency in the world, and its value has an impact on markets everywhere. So for the United States, the question as to what is a domestic monetary policy and what is not is open to a lot of debate, and I don't think any of us want those debates being resolved in some international trade tribunal, which is what is going to happen.

Moreover, contrary to what many of my colleagues seem to be arguing, no one in international trade—not the Treasury, not the IMF, not the G7, not the G20, not anyone in the world—has accurate tools in place to measure what is and what is not currency manipulation or what is purely domestic policy and what is intended to be international. Even if we demanded enforceable currency standards in our trade agreements, this simple fact will not change.

Basing trade sanctions on existing methods which have thus far proven to

be unreliable is fraught with risks—risks we should not undertake.

For example, IMF models recently showed that in 2013, Japan's currency was anywhere between around 15 percent undervalued and 15 percent overvalued. Given that range, what is an international trade tribunal to do if asked to set trade sanctions based on allegations of currency manipulation? Who in the heck knows. But if we insert these standards into our trade agreements, we would not only subject our trading partners to possible trade sanctions based on indefinite standards, the United States would face similar risks. This is a recipe for trade and currency wars—a situation I think we would all like to avoid.

Third, under this amendment—that is, the Portman-Stabenow amendment—the traditional role of the U.S. Treasury in setting U.S. exchange rate policies would be watered down and potentially overruled in international trade tribunals. Do we want that? Thus, adoption of the Portman-Stabenow negotiating objective cedes independence and full authority over not only monetary policy for the Federal Reserve but also exchange rate policy for the Treasury.

Fourth, the Portman-Stabenow amendment would create incentives for our trading partners to evade regular reporting and transparency of exchange rate policies. If currency standards become enforceable and immediately subject to sanctions under a trade agreement, the parties on that agreement would almost certainly start withholding full participation in reporting and monitoring mechanisms that would otherwise enable us to identify exchange rate interventions and work against them.

Put simply, we cannot enforce rules against unfair exchange rate practices. If we do not have information about them, we can't enforce the rules. Under the Portman-Stabenow amendment, our trading partners are far more likely to engage in interventions in the shadows, hiding from detection out of fear that they could end up being subjected to trade sanctions. I don't think anybody wants that, but that is what is going to happen.

For these reasons and others, the Portman-Stabenow amendment is the wrong approach. Still, I do recognize that currency manipulation is a legitimate concern and one we need to address in a serious, thoughtful way.

Toward that end, Senator WYDEN and I have filed an amendment that would expand on the currency negotiating objective that is already in the TPA bill to give our country more tools to address currency manipulation without the problems and risks that would come part and parcel with the Portman-Stabenow amendment.

The Portman-Stabenow amendment would provide a single tool to address currency manipulation: enforceable rules subject to sanctions. As I think I have demonstrated, this, for a variety of reasons, is a pretty blunt, unreliable, and imprecise instrument, given the realities of the global economy.

By contrast, the Hatch-Wyden amendment would put a number of tools at our disposal. Specifically, the amendment calls for enhanced transparency, disclosure, reporting, monitoring, cooperative mechanisms, as well as enforceable rules. Our amendment, which would provide maximum flexibility, is a better alternative for addressing currency manipulation for a number of reasons.

First, it would preserve the integrity of our current trade negotiations. Once again, if we insert an absolute requirement for enforceable currency rules and required sanctions into the ongoing TPP negotiations, many, if not all, of our negotiating partners will almost certainly walk away. The Hatch-Wyden amendment would pose no threat to the TPP negotiations or any other trade deals.

Second, our amendment would not threaten the independence of the Federal Reserve or subject our own monetary and exchange rate policies to possible sanctions based on indefinite standards. Unlike the Portman-Stabenow amendment, it does not give other countries a roadmap to accuse the United States of using its policies intended for domestic growth and stability as tools for currency manipulation.

Third, it would increase transparency and accountability of our trading partners' currency practices. This is absolutely crucial. Put simply, we cannot counteract practices that we cannot readily observe. The Portman-Stabenow amendment would tell our trading partners that if you engage in full reporting and transparency, you run the risk of having an international tribunal detect your actions in ways that will generate trade sanctions. The incentive, then, is for countries not to be transparent and instead to put their currency policies further in the shadows, hiding away information that could end up being used in trade disputes.

Our trade agreements should provide incentives for countries to go in the opposite direction: full disclosure and accountability of currency practices. The Hatch-Wyden amendment would provide a more effective incentive structure.

Finally, and in the current context, most importantly, the Hatch-Wyden amendment would not result in a veto of the TPA bill. It is, in fact, supported by the Obama administration, not to mention business and agriculture stakeholders across the country.

I suppose one could say we have come full circle. After what I hope has been an interesting discussion of important policy considerations, we are back at the simple, uncomplicated truth. If nothing I have said here today about the complexities of currency and monetary policy has resonated with my colleagues, this fact remains: A vote for the Portman-Stabenow amendment is a vote to kill TPA.

I am sure that sounds good to some of my colleagues who are fundamentally opposed to what we are trying to do here, but for those who support free trade, open markets, and high-paying jobs for American workers, this truth is inescapable.

But, once again, this doesn't mean we should stand by and do nothing about currency manipulation. The Hatch-Wyden amendment will provide an effective path to improve transparency, measurement, and monitoring of our trading partners' currency practices, and effective and transparent ways to counteract anyone seeking to manipulate currencies for unfair trade advantage.

The Hatch-Wyden amendment will allow Congress to speak forcefully on the issue of currency manipulation without putting our trade agreements and domestic policies in limbo.

For Senators who are sincerely concerned about currency manipulation—and I am one of those Senators—the Hatch-Wyden amendment would address these issues in a far more productive way.

So, at this point, the choice should be pretty clear. We have strong indications that the House cannot pass a TPA bill with the Portman-Stabenow language. Even if it could pass the House, Secretary Lew has made it very clear that including that provision in our bill would compel President Obama to veto it.

The Hatch-Wyden amendment, on the other hand, would strengthen our hand by providing a workable set of tools to counteract currency manipulation in a way that would protect our interests and achieve real results and, most importantly, it would preserve our ability to enact TPA so we can negotiate strong trade agreements that will help grow our economy and create jobs.

That is the choice we face with these two amendments. I call on my colleagues who support TPA to oppose the Portman-Stabenow currency amendment and support the Hatch-Wyden alternative.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. COTTON). The Senator from Oregon.

Mr. WYDEN. Mr. President, first of all, I wish for colleagues to know that I think Chairman HATCH has made some very important points with respect to the currency issue and for colleagues to know that the approach of the chairman and me is to make sure we can have tough, enforceable currency rules without doing damage to American monetary policy or the ability to fight big economic challenges in the days ahead that we think would come about with the amendment offered by the Senator from Ohio, Mr. PORTMAN.

By the way, I want colleagues to know that currency is going to be in the Customs conference. Chairman HATCH and I have discussed this point

as well. We felt very strongly about making sure there is a Customs conference that goes right to the heart of the enforcement agenda. In that Customs conference—and the chairman and I have been able to secure a commitment from the President and from Chairman RYAN—that Customs conference is going to take place right when we get back. The President of the United States indicated last night that he wants us to get this done in June. So we are going to have a chance to tackle currency in that conference. Senator BENNET worked closely with the chairman and I so we got something in the committee that we thought was a smart, practical step. The chairman and I are talking today about something that is also strong and enforceable that would not produce the downside I have outlined.

So I want colleagues to understand there is an opportunity, particularly on the currency issue, very quickly, to put in place very tough, practical rules that get us the upside in terms of protecting the American economy without some of the downsides I have outlined and that Chairman HATCH has described as well.

What I want to do particularly this morning is, given yesterday, talk about some of the very positive developments we saw yesterday. I wish to express my appreciation to Chairman HATCH again for working closely with me on these issues.

I will start by talking about Senator MENENDEZ. Senator MENENDEZ, as do many of us, feels very strongly about human trafficking, about compelled labor, about commercial sex. He has made it very clear he wants to stop trafficking and he wants us to come up with a fresh policy. So he offered an amendment in the Finance Committee and it passed. All over the press for the next few days—and Chairman HATCH remembers this—were accounts: Poison pill is going to end the possibility of finding a way forward on the trade promotion act. The headlines were everywhere. The general view in the press was Western civilization was about to end because of the adoption of the Menendez amendment.

Well, Senator MENENDEZ believes in legislating. He believes what we ought to be doing when there are important issues, contentious issues—that we need to find a way to bring everyone together. So what Senator MENENDEZ did—and I was very pleased to be able to play a modest role in this—is he brought together all of the groups. He brought together the administration, the U.S. Trade Representative, and outstanding organizations that fight trafficking and, without any headlines and without any drama, did the nuts-and-bolts work to make sure that now we are going to have a new process. We are going to have a new process that ensures that the President is going to report to the Congress on the concrete steps the country takes to crack down on trafficking.

Now, it didn't make headlines this morning. It doesn't make headlines when you work with both sides and all the parties outside of the bright lights. But today we now have an opportunity to move forward, in a bipartisan way, on an issue that a couple of weeks ago was described as a poison pill, the end of TPA, causing the entire Senate to be paralyzed because it wouldn't be possible to move forward.

I bring this up only by way of saying that I hope today—and I am going to be here throughout the day trying to work with both sides to try to find a way to get amendments considered and to do as Senator MENENDEZ did over the last 10 days or so to actually solve a problem and make it possible for us to up the ante against this plague of trafficking but also make it possible to move forward on this legislation.

I would also like to note that all this work went on when everyone understood that Senator MENENDEZ has been opposed to the legislation and Chairman HATCH and I have been for it. But the idea was that both sides care about trying to fight trafficking. Both sides understood that if we worked together, there was an opportunity to really solve a problem.

In my view, Senator MENENDEZ deserves great credit for doing what is the most important work in the Senate, legislating and trying to bring people together of disparate views. In doing so, what Senator MENENDEZ accomplished was to show the country and the Senate that we can take another step for trade done right.

Trade done right is my vision of where we ought to go. We have heard about free trade and fair trade. What we want is trade done right. Because Senator MENENDEZ was willing to put in all this time on his trafficking bill, we took, on a bipartisan basis, an issue that was a poison pill whenever it was discussed just about anywhere in the country and we turned it into a better approach to fight trafficking. We were able to advance the cause of being able to move forward, and I look forward to seeing that passed.

A second area where we made a lot of progress yesterday was on enforcing our trade laws. Particularly important about this, because virtually every time I have ever talked about promoting trade—pretty important in my State where one out of five jobs depends on trade—I have said that passing new trade agreements and doing a better job of enforcing the trade laws are two sides of the same coin. The reason I reached that judgment was because of what a number of skeptics about this issue brought up—and I think it is a legitimate concern—which is: Why is everybody in Washington, DC, talking about new trade laws when they are not doing everything to enforce the laws we have on the books? Chairman HATCH and I talked about this many times and both of us agreed we needed a robust enforcement package.

We were able to get important measures into our Finance bill—measures that were sought by a number of our colleagues. Senator BROWN had a number of provisions. I was particularly interested in what is called the ENFORCE Act. This is something I developed back when I was chair of the trade subcommittee.

We had put together a sting operation to catch scofflaws overseas who were trying to avoid our trade laws. In effect, what they were doing was merchandise laundering. They would be found to be in violation of our dumping or our trade rules in one country and they would just move to another and try to move it through another nation, and we caught them on it. Many parties responded to the sting operation saying: We are in. We are anxious to stop this merchandise laundering. So I don't take a backseat to anybody in terms of enforcing our trade laws.

So after Chairman HATCH and I got that through the Finance Committee, the second step was we had a separate vote in the Senate on a very strong Customs and Enforcement package. That was step No. 2. But at that time, a number of observers said: Well, nothing is going to happen. It got passed here in the Senate, but that bill is not going anywhere, not going to happen. That is the end of the topic.

Chairman HATCH and I, working together with Chairman RYAN, said: Of course we are going to have a conference. We feel very strongly about this. So we put out a statement earlier in this week saying: You bet there is going to be a conference in June, and we are committed to getting this done.

Chairman RYAN has indicated that he is going to take each of the trade bills—all four of them—up on the same day in the other body. He is going to pass them all, and then we will have a conference. After that happened, I was told that, well, that sounds good, but we are still not going to have much. Is the administration going to be for it?

So, yesterday, in consultation with Chairman HATCH and myself and others, the President put out a very strong statement explicitly stating what he wanted in that conference, and he wanted it in June. He talked again about Senator BROWN's measures, 301, the level playing field, and the ENFORCE Act. I was very pleased he mentioned child labor.

So a tough, strong enforcement package is going to happen. I am going to insist on it. Chairman HATCH has pledged to me he is going to insist on it. It is going to happen. All of that was essentially nailed down in the last 24 hours.

So two big issues, two very significant issues, which were both considered to be show-stoppers: The Menendez amendment, fixed. All the headlines about poison pills, no longer valid. Senator MENENDEZ has fixed it.

Chairman HATCH, to his credit, has been willing to work with me and with the President. We are going to have a

strong enforcement package and we are going to have it in June and it is going to become law as part of the Customs conference.

The Senate spent a lot of time yesterday debating an important issue, which is the future of the Export-Import Bank. I want to thank my Pacific Northwest colleague and friend Senator CANTWELL for all of her leadership—all of her leadership over the years—in trying to renew the Export-Import Bank. She has been the one who has pointed out: If you have trade laws, which we are trying to promote with the trade promotion act, but you aren't using the tools that you need to get the maximum value—wring the maximum value out of those new laws—you are missing opportunities that are important for our Nation. So I urge the majority leader to work closely with Senator CANTWELL to make that happen.

Finally, I have been pleased to see a robust debate on a number of issues, particularly issues that have been important to Senator WARREN and Senator BROWN. What I have said from the very beginning and what I am going to be here all day working on is this: There are Senators who feel strongly about promoting the trade promotion act; there are Senators who are opposed to it. I am obviously for the agreement, but every single day I am looking for opportunities for both sides to be heard and to be able to advance their ideas. It started long before we actually had votes in the Senate Finance Committee, and it is going to continue every single day that I have the opportunity to serve in the Senate.

These are important issues. I thought it was particularly important that Senator WARREN's investor-state provision be able to get a vote early on in the proceeding—obviously an issue that there has been great debate on—and there are many more important amendments to this package.

So I want colleagues on both sides of the aisle to know I am going to be here throughout the day—throughout the day—looking for ways that all Senators, whether they are for the agreement or against the agreement, will have an opportunity to have their priorities considered on this trade legislation.

I will just wrap up, colleagues, by way of saying that the reason this issue is so important is we debate continually about how to get more high-wage jobs in our country. Continually we debate that because we want higher wages for our constituents. The evidence is that trade jobs pay better than do the nontrade jobs. We need more of them.

There was a report this morning that my State has a significant trade surplus, and we are very proud of that. There are other States that don't. Let's promote legislation that allows us to secure more exports, particularly in the developing world, where there are going to be a billion middle-class consumers in 2025. We want them to ''Buy American,'' because when they do, it creates the opportunity for us to have more of those export value-added, high-productivity jobs that pay our workers better wages and that strengthen our middle class.

It is going to be a busy day, and I look forward to working, again, with both sides so Senators, whether they are for the TPA or whether they are against it, feel they have a chance to raise their issues and be treated fairly.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak as in morning business.

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

NATIONAL SECURITY

Mr. BARRASSO. Mr. President, today, President Obama is heading to Connecticut, where I understand he is going to be addressing the graduates at the Coast Guard Academy. He plans to talk about threats to our national security.

I think many Americans would be astonished to learn the President's planned discussion on national security is going to center on climate change. After all, Americans understand there are much more immediate threats facing our Nation, such as the fall of Ramadi in Iraq and the brutal terrorist attacks by ISIS. These are clear examples of the real threats that must be addressed by President Obama.

I would encourage the President to spend this time today addressing America's most pressing national security threats. The President and his national security team must deliver strong leadership and an effective strategy to fight the terrorists who want to attack our country and kill more Americans. This should be the focus of the President's speech today. This should be our most pressing national security concern.

OBAMACARE

Mr. President, I would also like to talk about an important issue that is facing Americans and they will soon need to be seeing, which is that next month the Supreme Court is expected to announce a decision in the case of King v. Burwell. This is a case that has been brought on behalf of millions of Americans who have been harmed by the President's unlawful expansion of his unworkable and unaffordable health care law.

Sometime before the end of June, the Court is going to announce if the law passed by Congress means what it says or if it means what the President wishes it had said. The law, written by Democrats in Congress, written behind closed doors, only authorized insurance subsidies for one group, and the President had the IRS pay subsidies to another group.

The President gave bureaucrats much more power to control the health care choices and decisions of people who never should have been caught under the law. The Supreme Court should strike down this alarming overreach by the President. If it does, that will give Congress an opportunity to address some of the devastating problems the health care law has caused.

It seems like every week we see another headline about another damaging side effect of the President's health care law. Here is one example from a story yesterday morning, the front page of Investor's Business Daily: ''ObamaCare Rates Will Soar In 2016, Early Data Signal.'' Average 18.16 percent hike proposed. It is an astonishing fact that people are facing—increasing rates, soaring again in 2016.

Insurance companies that sell plans in the ObamaCare exchange are starting to set their rates for next year. There are a series of articles that continue to come out. One says that the top ObamaCare exchange insurers in six different States where the 2016 rate requests have already been filed—and they will come in every State—are seeking rate changes that average 18.6 percent just next year alone. Early reports range from an alarming 36-percent hike sought by the dominant insurer in Tennessee to a hefty 23-percent average increase requested by Oregon insurers. People across the country saw these rates go up at the beginning of this year, and now they are facing it again. They are starting to learn that it was not just a 1-year deal.

There is another story that came out May 7 in the Connecticut Mirror. The article says that insurance companies selling health plans through the State's health insurance exchange are seeking to raise rates next year, with an average increase somewhere between 2 and nearly 14 percent.

You take a look; it is outrageous.

I know the Senator from Connecticut has come to the floor saying that we should be celebrating ObamaCare—celebrating it, he said. Well, with these rate increases for families in Connecticut, it looks to me like the party is over. ObamaCare was supposed to bring costs down. That is what the President promised. He said premiums would go down by an average of $2,500 per year, per family. It has not happened. For an average family who gets coverage through their work, the premiums have gone up about $3,500 since the President took office in 2009.

Why do we still see headlines about premiums going up by 14 percent or even 2 percent? Why are they going up at all? Why are the promises Democrats made about the health care law not coming true? Why are ObamaCare rates set to soar again in 2016? Why are people in places like Connecticut still seeing headlines about their costs going up by 14 percent?

A few weeks ago, the Democratic leader said on the floor that ObamaCare is a ''smashing success.'' He stood right over there and said it—it is a ''smashing success.'' Is there a Democrat who thinks that a 14-percent increase to families in Connecticut is a

smashing success or that an 18.6-percent average across the country is a smashing success?

We are going to see this same story about soaring insurance rates repeated all across America. And it is not just the ObamaCare premiums that are causing problems for families. Here is a headline from the Washington Post on Friday: ''Insured, but still not able to afford care.''

''For one in four who bought health coverage, some costs remained too high.'' So they have insurance, but they are still not able to get care. People who have insurance have been avoiding going to see the doctor. That is according to a new study by the liberal advocacy group called Families USA. This was an advocacy group who was a huge supporter of the President's health care law and a huge supporter of the President. Even this group has to admit that coverage does not equal care. There is a difference. The group's executive director is quoted in this article in the Washington Post as saying, ''The key culprit as to why people have been unable to afford medical care despite coverage is high deductibles.'' Well, I agree. Many people's deductibles are too high. The reason the deductibles have gotten so high and so out of hand all of a sudden is that the health care law included so many coverage mandates.

Democrats who voted for this said they know better than the people at home what kind of insurance they need. That is what the President said. The President said: I know better than you do. I know what your family needs. You do not. That is why the deductibles are so high. Insurance had to raise their premiums to cover the cost of all these new Washington mandates. They had to raise deductibles as well. This year, the average deductible for an ObamaCare Silver Plan is almost $3,000 for a single person and more than $6,000 for a family.

People have Washington-mandated coverage, but they still cannot afford to get care. So people are putting off going to the doctor. They are skipping tests. They are skipping followup care because of the high deductibles and copays. Why are people across the country having to put off getting care? Because they cannot afford it. Is that what Democrats mean when they say the law has been a smashing success, when the minority leader comes to the floor and says it is a smashing success? All across the country, Americans are struggling with the cost of health care under this health care law.

There was a study out this morning. In the paper The Hill, Sarah Ferris writes:

''Underinsured'' population has doubled in the United States to 31 million.

One-quarter of people with healthcare coverage are paying so much for deductibles and out-of-pocket expenses that they are considered underinsured.

Thirty-one million Americans.

Rising deductibles—even under ObamaCare—are the biggest problem for most people who are considered underinsured.

Doubled. The number of underinsured people under the health care law has now doubled.

People are paying more as a result of the Democrats' health care law, and they are going to be paying even more next year and the year after that until we are able to do something to stop it.

Republicans are offering real solutions that will end these destructive and expensive ObamaCare side effects. That means giving Americans and giving States the freedom, the choice, and the control over their health care decisions once again. Republicans understand that coverage does not equal care. Republicans understand what American families were asking for before this health care law was ever passed. That is what they are still asking for today.

It is time for Democrats to admit that their health care law did not work—it did not work out the way they promised—and to start working with Republicans on reforms that will give people the care they need from a doctor they choose at lower costs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, returning to the conversation about trade policy and its impact on American workers and businesses, President Kennedy once said, ''The trade of a nation expresses, in a very concrete way, its aim and its aspirations.'' Well, what are our aims and aspirations in crafting a new trade structure? The President says that his aim and aspiration is to be the writer of rules for trade in Asia. I have a different aspiration. My aspiration is that we create trade that creates living-wage jobs in America, that puts people to work making things in America. If we don't make things in America, we will not have a middle class in America.

So as we contemplate a massive new trade deal, the Trans-Pacific Partnership, and the bill before us to fast-track consideration of that Trans-Pacific Partnership, we should ask ourselves this question: Is this about our geostrategic goal of being the leader in writing the rules or is it about writing rules that actually work for working Americans? Because, you see, working America has done very poorly under this goal of geostrategic influence. Oh, yeah, we had NAFTA, the North American Free Trade Agreement. We had CAFTA, the Central American Free Trade Agreement. What was the result of that? Well, we lost 5 million jobs in America. We lost 5 million jobs.

We lost 50,000 factories. If you go around Oregon, you can see those factory sites. I recently visited the Blue Heron site. Just a few years ago, there were hundreds of workers at the Blue Heron paper factory, but under the structure of one trade agreement—WTO—those jobs went to China. Paper manufacturing went to China. The equipment was pulled up out of that factory, leaving a big hole, and shipped overseas. That is what happened. We lost our factories. We lost our jobs.

There has been a lot of discussion that this is a new trade agreement, that it establishes enforceable standards for labor. Well, perhaps the single most important standard is minimum wage. Minimum wage is about resisting the full exploitation of workers, the full race to the bottom. So, of course, I am sure the proponents would say: Well, of course we have addressed that. That is central. That is the central ingredient, is to make sure that there is not a race to the bottom and that we address the fact that every nation that will be part of this agreement will have to have a minimum wage, a minimum wage that rises over time, a minimum wage that provides a basic standard of living so that we do not have conditions of full exploitation, miserable sweatshops, if you will, that are producing the goods we are buying here in America under this agreement.

So it may come as a shock to people across America that this most fundamental standard of minimum wage is not addressed in this agreement.

What do we have right now? We have 12 countries. We have two countries—Brunei and Singapore—with no minimum-wage standard at all. Then we have Mexico at 66 cents and Vietnam—for Vietnam, they set a monthly minimum wage and they set it regionally. So the number varies according to how you calculate it. Some would call it 57 cents; others would say 74 cents. Let's just put it this way: The minimum wage in Vietnam is way under $1 per hour. In Malaysia, it is $1.54; Peru, $1.55; Chile, $2.25.

So does this Trans-Pacific Partnership have a requirement that there be a minimum wage that will rise up workers and stop these sweatshops across the world so that we are not buying products from sweatshops with miserable, slave-like conditions? It does not. It has no such provision. It has no minimum wage, which leads us to another fundamental observation.

What this trade agreement does is set up a dynamic between these very low wage countries and countries that are developed and aspiring to create living-wage jobs here. But what happens when you have manufacturing in these high-wage countries, high-environmental-standard countries, high-labor-standard countries and high-enforcement countries and the manufacturer looks out and sees a competitor, in a free-trade regime, in these very low-wage, low-labor, low-environmental, and low-enforcement countries? Well, it is obvious: The manufacturing migrates to the place that is the cheapest. That is the way free enterprise works—it goes to where you can make the most profit.

So it is not some absurd, unexpected result that NAFTA resulted in the loss of 5 million good-paying jobs in America. It is not some unexpected result that we lost 50,000 factories.

When he was campaigning for President, Ross Perot said: If you adopt NAFTA, you will hear the sound of the jobs leaving America.

Well, that is exactly what happened—exactly what happened.

So is it a fact that this new-generation trade agreement actually address this core problem? Well, the answer is, it does not. It does not do anything to address this disparity between very low wages and prosperous countries. This is going to be, as Ross Perot put it, another situation with a giant sucking sound of jobs leaving America.

Proponents of this treaty say: Well, we have done something very significant. We have taken the labor and environmental side agreements and we have put them in the center of the agreement. This is pretty much like moving deck chairs on the Titanic. You move them from one location to another location. How does that change the outcome? Well, it doesn't. It just means they are printed in a different part of the text. That is not very good news, if you will, to workers across the United States of America who have been assured there is something fundamentally different about this agreement.

These labor standards and these environmental standards that are in the agreement—we have heard a lot about enforcement, and there is nothing new to enforce in these labor and environmental standards.

I want to take a little detour here because there are some important enforcement standards that my colleagues have put forward. My colleague from Oregon has put forward the ENFORCE Act. This is important for enforcing tariffs. This is important for enforcing the movement of goods illegally through third parties in order to bypass tariffs in the United States. That is a good step forward, but that does not address the core of this issue which is enforcement of the labor and environmental standards.

Now, we have the same basic standards in various trade agreements, and they are never enforced because there is no effective mechanism for enforcement. Let me expand a little bit on what has gone on and then point out that nothing has been done to fix it. You essentially have a set of standards and these standards are the International Labor Organization standards, ILO standards. These ILO standards address a series of things. These ILO standards are things such as child labor. That is a bad idea. It should stop. It addresses that union organizing should be allowed, and that is a good thing. So the standards themselves are solid and respectable.

But when a nation becomes part of the trade agreement, how do you have them enforce those standards. That is what is missing—no enforcement for these standards.

There is a government-to-government process for consultations when the United States is upset that someone is not enforcing. Ultimately, they can file a case. That case can take years and years and years to adjudicate, and it never gets done.

The number of labor standard enforcement actions that have been completed is zero. The number of environmental enforcement standards that have been completed is zero—zero, zero. So if we take a broken system from existing trade treaties and slip it into a new trade treaty, what is the expected result? No enforcement of these standards. All the parties know that. They can put these laws on the books, but there is not going to be enforcement.

There is one case—one case alone—that we have sought to proceed to enforce and that is with Guatemala. With Guatemala, they have massive labor violations. They are not making the slightest attempt to follow the ILO. We held consultations, more consultations, and more consultations, and finally filed a case. It has gone on and on and on and never gotten to a conclusion. So we still have zero, zero enforcement.

Now, one reason it doesn't get to a conclusion is because there is no enthusiasm behind any form of enforcement, and why is that? First, our government says: Well, if we try to enforce it, it will create ripples in the relationship. That country will be upset with us if we try to enforce a labor standard and an environmental standard.

Then, second, they will say: No, there be will retaliation. They will file suits against us, and we will have to spend all this time responding, and what is the point of that. That is unproductive. We say they are not meeting it. They say we are not meeting it.

Then, third, and very importantly, the companies that have invested under that trade agreement in that nation, they come out and tell the government: What are you doing? The goal of the trade agreement was to create a stable environment for investments. You are destabilizing that by filing a grievance against this country, so don't do it. In the end, if you ever got to an enforcement action, well, that would hurt us because we put our factory there, and now we would be subject to tariffs.

So this combination means that structure is completely dysfunctional, and that structure is exactly what is in TPP. So this is why we are coming forward and saying now is the time to fully debate how we tackle this problem so we can stop pontificating about strong labor and environmental standards and actually have a structure that creates that within the 12 nations that are considered being part of TPP. So that is the distinction.

Significant, valuable attention is being paid to enforcement of tariffs and efforts to bypass through third-party shipments, our Customs structure—and that is important. But the labor standards and the environmental standards, enforcement is zero, and that same broken system is being imported into the TPP.

Yesterday, I came to the floor and I tried to pull up amendments. We are being told the leaders on this bill want to choose, pluck, and pick just the amendments they want to allow to be debated, unlike in the past, where we have had a situation where people have been invited to come to the floor and make their amendments pending, and then we worked through those amendments. So we spent time addressing the issues that Senators thought were important. That is a robust and open process.

But despite the promises of the majority leader for an open and robust amendment process, we do not have that. We have a behind-the-scenes negotiation with amendments picked and plucked according to what the proponents of this deal want to have, and the rest of us are out in the cold.

So I have these four amendments that I would be happy to pull up at any time that is allowed. I already tried yesterday, so I will not try to do it again, but let me tell you the types of things they address. One is it takes on the core deficiency in the Trans-Pacific Partnership, which is that it does not have any minimum wage. So it simply says:

FOR AGREEMENTS THAT SUBJECT UNITED STATES WORKERS TO UNFAIR COMPETITION ON THE BASIS OF WAGES.—The trade authorities procedures shall not apply to an implementing bill submitted with respect to a trade agreement entered into under section 103(b) unless the agreement—

(A) establishes a minimum wage that each party to the agreement is required to establish and maintain before the trade agreement is implemented; and—

So it is not something that is done down the road; it is done before it is implemented. Second—

(B) stipulates that the minimum wage required for each party to the agreement increase over time, to continuously reduce the disparity between the lowest and highest minimum wages [in these very low countries and these very high countries].

Now, currently, the disparity of the minimum wage between the United States and Mexico is about tenfold. Here we are: Mexico at 66 cents, the United States at over $7. Mexico's minimum wage is 9 percent of our minimum wage—one-tenth.

So, of course, it made sense that factories would be shipped from the United States to Mexico. Not only do you have poor enforcement, poor environmental standards that are not enforced, but you have a minimum wage that is one-tenth of what it is in the United States.

So I don't specify in this amendment that the minimum wage has to be set at any particular level. That can be the subject of the negotiations. I don't specify that it has to be raised by 10 percent a year to narrow the difference between the very low countries and the higher countries so we reduce the disparity.

This is like taking a playing field that is tilted 10 to 1 against the workers of the United States of America—10

to 1. It is not close to a level playing field. The American minimum wage is more than 10 times the Mexican minimum wage. It is a 10-to-1 disadvantage to American workers.

That is what we are talking about—the proponents are talking about—embedding into this trade agreement. So I am suggesting: OK. At a minimum, the negotiated process, where that playing field is gradually brought to a more level situation, where the disparity is decreased, shouldn't that be a primary negotiating objective of the United States in these agreements? Aren't we right now talking about explaining to the administration what they should negotiate in this agreement?

My colleague from Utah spoke earlier about the provision regarding currency manipulation and explained why he thought it would be unproductive to have it here—while it is very important—unproductive to have the amendment that SHAHEEN and PORTMAN, my colleagues, are presenting. But that is the purpose of this debate on the floor, to allow that amendment to be called up, to hear the views for it, to hear the views against it, and to lay out our vision to the administration.

Now, my colleague has pointed out that the administration has said it will not accept establishing a goal of enforceable currency manipulation provisions. Why is that? I can tell you because the administration told me. They said, if we had put this on the table in the beginning, then we could probably raise it and have it be part of the conversation. But, you see, we have already negotiated this agreement. It is 95 to 98 percent done, and so we can't possibly introduce something new into this process. That would disrupt all the groundwork we have laid.

So this is where the cart came before the horse. The treaty was negotiated without consultation with Congress about what should be in it. We all understand currency manipulation is a form of tariff. It is a form of tariff and subsidy.

When I came into the Senate, China's currency manipulation was calculated to be equal to a 25-percent tariff on American products going to China and a 25-percent subsidy to Chinese products coming to the United States. Well, that is a huge tariff. Combine the two together—50 percent differential. That is not fair and appropriate in a trade agreement that was supposed to reduce—under the WTO—barriers. No. So we know it is a problem. Why not fix it, why not address it, why not debate it, why not discuss it, and why not struggle to find a solution. That is what Senators SHAHEEN and PORTMAN are saying; that that is an important element related to this unbalanced situation that is going to remove jobs from the United States.

Now, I am pointing out another deficiency; that is, that there is no minimum wage, that we are starting out with a 10-to-1 differential with Mexico, approximately a 10-to-1 differential with Vietnam, that there should be a minimum wage so we can stop the race to the bottom, and it should be gradually raised to decrease the disparity.

That is an issue worthy of debate, but I can't get that debate onto this floor because the proponents don't want to allow debates on these amendments. They just want to choose and pick the subjects that they want to allow to be debated rather than the ones the Senators want to allow to be debated. That is not a robust and open amendment process.

Now, there is another flaw in this TPA, which is it has negotiating objectives. An objective is simply a wish, a hope, it is a desire, it is an inclination, but an objective is not an actual provision.

So we can say all the beautiful things we want about what our objectives should be, but instead we should be asking, What are the standards? What are the standards that need to be in a treaty that are brought back in order to benefit from fast-track? What are the actual standards that should be in an agreement that is brought back to the Senate under fast-track—because fast-track gets special privileges on the floor of the Senate.

So setting an objective doesn't do the work because it doesn't define what will come back to this body under this special privilege. We should convert those objectives into actual requirements. That is what one of my amendments does.

Then we can turn to the situation where the TPA has another deep flaw that many have pointed out that hasn't been addressed, and this deep flaw is it sets up an international tribunal, an international tribunal that can essentially assess fines on our local government, it can assess fines on our State government, it can assess fines on the U.S. Government, unless our local government or the State government or the Federal Government change their laws.

Establishing a judicial organization with no accountability to the U.S. judiciary, that is a grant of sovereignty. That is our courts' sovereignty being shipped to a tribunal of three corporate lawyers who get to decide whether there are massive fines levied against our local, State, and national governments. Well, that is certainly something that should be deeply concerning to us.

Now, the goal of this was to have some sort of judicial process substitute in countries that have a dysfunctional judicial process, and thereby encourage international investment. So you could have a situation where Vietnam and Malaysia would say: We know our judicial organization is corrupt or dysfunctional, so we will opt in for this dispute resolution structure because we want investment to come to our country. But why would we give away U.S. judicial powers to an international tribunal of three corporate lawyers—corporate lawyers for whom there is no conflict of interest standard? They could be the advocates on one case and the judge on the next. That is really not in accordance with our norms of judicial conduct. So we aren't even requiring our norms of judicial conduct to be applied to this international tribunal.

Furthermore, when we pass at the State or local or national level laws designed to protect the health and safety of our citizens, foreign investors are granted special privileges under this agreement because they can file and say: Your laws for consumer protection or the health and welfare of your citizens or to take on significant environmental hazards have hurt our investment, and we want to be compensated.

That is just wrong. Sure, if there was an unfair expropriation of someone's assets, that is judicable under American law. It doesn't require an international tribunal.

But what about when something is done for the safety and wellness of our citizens? Take, for example, asbestos. We tried to regulate asbestos in 1991. It was the last time any toxic chemical was considered under the Toxic Chemicals Act. We have done nothing in the intervening years. But let's say we get over the hurdles that existed in 1991, and we have a new law, a new process, such as has been debated in the Committee on Environment and Public Works. That bill had bipartisan support. If we create that structure and we regulate asbestos, now the foreign investor says: Oh, we have an asbestos factory so you have to compensate us. That is a privilege that the domestic—the United States; the red, white, and blue—investor would not have.

Let's say we regulate e-cigarettes—an effort by the tobacco company to addict our children to become lifetime users of nicotine and to do so through fancy flavors—chocolate, strawberry, cotton candy, and every candy flavor on Earth. You name it, they have a flavor of e-cigarette liquid designed to addict our children. So let's say we ban that, and the foreign investor gets special privileges because they say: Oh, well, I set up a factory, and I was going to make $1 billion over the next 20 years, so I need $1 billion of compensation.

That is the type of structure that is embedded in here. So at a minimum, I think this international tribunal should be opt-in. If we want to attract investment and we have a poor judicial system, opt in to this substitute to encourage investment. Maybe that is a win-win for a country with a poor judicial system and an investor who wants a strong way to make sure their rights are protected. But the United States would not opt in because we don't have a dysfunctional judicial system.

Here is an even more narrow provision. This narrow provision talks about when we do laws at the local, State or Federal level that are about consumer protections and wealth-stripping predatory loans. For example, we ended

those loans in the mortgage market. We don't want a foreign investor saying: Well, our whole business was built on that; you owe us $1 billion. No, we are ending predatory wealth- stripping practices and replacing them with fairer, 30-year amortizing mortgages with full disclosure and no kickbacks, which were allowed under the previous law. They were called steering payments. We ended steering payments.

Or on this issue of e-cigarettes, we are ending an effort to directly addict our children, which is terrible for their health and certainly terrible for the cost of our health care system. It is a lose-lose. We should be regulating it. We passed a law to regulate it, but we just have never gotten the regulations done. The FDA has now completed those regulations. They have shipped them to OMB—Office of Management and Budget. We hope someday that regulation will be in place. When it is in place, a foreign investor should not have special privileges to be compensated because we are protecting our citizens.

Therefore, we should carve out and say that our laws related to the environment and public health and consumer protection cannot be the subject of ISDS—that is the name of the tribunal, ISDS—attacks.

Then let us look at basic consumer information, such as the labeling of products. A lot of manufacturers don't like it when products are labeled. They consider that labeling might have information that might be prejudicial because consumers might prefer the content of one product, when honestly labeled, over the product of another.

We had a law in Oregon that took on growth hormones in milk. The basic compromise was that we printed on every package of milk. If it had growth hormones, it had to say it contained growth hormones; and then there was a little clause saying it was not shown to have ill health effects. But consumers wanted to choose the milk that didn't have the growth hormones in it. That was the value of labeling. It empowered choice by the consumer, by the individuals exercising their rights as to what they put into their body, their right as to what they feed their children.

We have a very similar situation with regard to meat. Americans often want to know whether their meat was made or grown in America. So we have a law called COOL—country-of-origin labeling. Well, COOL is very well received. People like to choose meat grown in America. Not everyone cares, but some do. That is their right. They know there are different standards for how animals are treated overseas. There are different rules for what type of ingredients go into the feed in other nations. So wanting to support good practices, they might choose American meat. Wanting to support something healthy for their children, they might want to choose American meat.

And what just happened this week? Well, one of these tribunals, in a different trade agreement, struck down America's country-of-origin labeling law. That is what I am talking about when I say we are giving the sovereignty of our judicial branch away to an international tribunal of corporate lawyers who can make decisions that affect our fundamental rights. That is simply wrong. We must fix this.

So I have an amendment that I would like to hear debated on this floor. Others may disagree with me. We have been elected to carry our views forward. There will be people here saying: No, it is fine we strip consumers of the ability to know where their meat is grown. It is fine to strip consumers of the knowledge of what ingredients have gone into their milk, if milk is imported, and so on and so forth. But I fundamentally disagree. I want to see us debate.

We are here to debate, so let us get these amendments up. Let us debate them, and let us quit stalling. Let us quit engaging in this process of trying to rush this through in a manner where these fundamental issues have not been addressed—fundamental issues such as the fact that there is no minimum wage in this agreement, and that the playing field is tilted deeply against manufacturing in America; fundamental issues such as that there are negotiating objectives that should be negotiating requirements for a bill to have the privilege of getting fast-track here on the floor of the Senate; fundamental issues such as that we should not have our environmental, public health, and consumer laws subject to an international tribunal; fundamental issues such as Americans having the right to label their products the way they decide, according to their statutes, and not have that overruled by an international group.

I would love to see this Senate function and to actually debate these amendments. I hope that happens. And any effort to shove this bill through without having those types of debates is certainly not the open and robust amendment process that was promised by the majority leader.

I yield the floor.

The PRESIDING OFFICER (Mr. SULLIVAN). The Senator from Iowa.

RENEWABLE FUEL STANDARD

Mr. GRASSLEY. Mr. President, while reading through the pages of the Wall Street Journal last week, I was overcome with a sense of déjà vu. As many of my colleagues have heard me speak on the Senate floor many times each year over the last several years about ethanol and about misconceptions about that, these misconceptions showed up in an op-ed piece in the Wall Street Journal last week.

Once again, in this case it happens to be chain restaurants and chicken producers teaming up to smear homegrown biofuel producers at the expense of energy independence and cleaner air. It seems as if every couple of years food producers and grocery manufacturers team up with Big Oil to try to undermine the extremely successful Renewable Fuel Standard Program.

Here is a little history for everyone. In 2008, it was the big food producers led by the Grocery Manufacturers Association, because, presumably, in our economy, in our society, grocery manufacturers have more prestige than Big Oil. In 2010 and 2012, it was global integrated meat producers, led by Smithfield Foods and the American Meat Institute, presumably because they have more prestige than Big Oil.

The opinion piece I am referring to in the Wall Street Journal this time was written by the head of the National Chicken Council and the National Council of Chain Restaurants. And under these circumstances, compared to the other two instances I cited, there is really no difference. They have prestige that Big Oil doesn't have.

This article makes many of the same erroneous and intellectually dishonest claims we have heard dozens of times before, and I am going to take this opportunity to do a simple fact-check of some of the most egregious claims.

First, these two authors claim that since 2005, when the renewable fuel standard was first adopted, costs of vital food commodities, including corn, grains, oilseeds, poultry, meat, eggs and dairy have risen dramatically.

This is pure myth. The fact is consumer food prices have increased by an annual rate of 2.68 percent since 2005. In contrast, food prices increased by an average of 3.47 percent in the 25 years leading up to passage of the renewable fuel standard in 2005. Prices for chicken breasts have been nearly flat over the past 7 years, averaging $3.43 per pound in 2007 and just 3 pennies more, to $3.46 per pound, in 2014. Corn prices are expected to average $3.50 per bushel this year, according to the Department of Agriculture. This would be the lowest price in nearly 10 years and 17 percent below the average price of $4.20 a bushel in 2007 when the renewable fuel standard was enacted.

That is a fact. With ethanol production at record levels today, corn prices are lower now than they were in 2007. But I don't know how many times over the last several years I have listened to this business about ethanol causing corn prices to go up and food prices would go up. And food prices went up. But when corn is $3.50, we don't see food prices come down. It has been proven time and again by the EPA, by the USDA, and others: There is no correlation between corn prices or ethanol production and retail food inflation or food prices. Once again, that is just a simple fact.

Second, these authors claim that as a result of the renewable fuel standard, corn is being ''diverted'' from livestock feed to ethanol. Again, this claim is pure falsehood. Corn used for ethanol has come from the significant increase in corn production since 2005. In 2005, American farmers produced 11.1 billion bushels of corn. In 2014, they produced 14.1 billion bushels of corn. Why? Because the market responds and the

farmers respond to the increased use of corn, and they will meet it whether it is for biofuels or anything else.

Here is something very significant: One-third of the corn used for ethanol production is returned to the market as animal feed. The amount of corn and corn coproducts available for feed use is larger today than at any time in history. So it is hardly being diverted. But time after time, a prestigious newspaper such as the Wall Street Journal continues to tell the people of this country that 40 percent of corn production goes to make ethanol. They are right—40 percent goes to the ethanol plant. But out of a 56-pound bushel of corn, 18 pounds is left over for animal feed—and very efficient animal feed, let me say, badly in need and welcomed by farmers. In fact, some of it is even exported. But does the Wall Street Journal ever make that clear, that it isn't 40 percent of corn that is used for ethanol; it is 26 percent or 27 percent that is used for ethanol? So, just as I said, corn is not being diverted.

The same can be said for their misleading claim that ethanol production has contributed to global food scarcity. In the 15 years prior to the enactment of the renewable fuel standard in 2005, U.S. corn exports averaged 1.8 billion bushels per year. In the 10 years since the renewable fuel standard's passage, corn exports have averaged yet more—not a whole lot more but 1.84 billion bushels. So with 14.33 billion gallons of corn ethanol, corn exports are slightly higher than they were prior to the renewable fuel standard.

Another fact-check: The authors of the opinion piece also claim that corn ethanol has resulted in a significant increase in the volatility of food costs, which has left prices higher, they say. So I looked into the average food inflation going back to 1970. During the 1970s, food inflation averaged 7.8 percent. In the 1980s, it was 4.6 percent. In the 1990s, it was 2.8 percent. In the 2000s, it was 2.9 percent. So far this decade, it has been 2.2 percent—or the lowest rate of increase at the same time that we are producing record amounts of corn ethanol.

Finally, these two writers for the chain restaurants and for the chicken people claim that the increases in feed cost have affected the American production of beef, pork, and chicken. They state that production had increased consistently over the past 30 years but has now leveled off due to the higher cost of feed.

Again, this is nowhere near reality. Let's check the facts. The reality is that the Department of Agriculture is projecting red meat and poultry production of 95.2 billion pounds this year—up 10 percent from 2005. More growth is yet expected. The Department of Agriculture projects a production record of red meat and poultry in 2016, with 96.8 billion pounds—up 12 percent from 2005.

Just a few years ago, when corn prices had peaked at more than $7.50 a bushel, grocers, food producers, and restaurants were claiming—as I said once before but let me emphasize—that food inflation would approach 10 percent because of the renewable fuel standard. They warned then that they would be forced to pass those higher costs on to consumers immediately. As I have hinted before, today the price of corn is $3.50—less than half of what it was; in fact, $1 below the cost of production.

With lower corn prices, have consumers seen a dramatic reduction in retail food prices? In other words, are the benefits of lower grain prices being passed on to the consumer by Big Food? Obviously not. Ask any person shopping in the grocery stores. Corn prices have come down by more than half in the past 2½ years, so why are food producers holding prices steady or even increasing them? We accuse Big Oil of gouging. Isn't it about time, with $3.50 corn, that we accuse Big Food of price gouging?

The fact is, domestic renewable fuel producers are feeding and fueling the world at the same time. The 14.3 billion gallons of ethanol that was produced in the United States could more than displace the gasoline refined from all of the oil imported from Saudi Arabia. And where would we rather get our energy from—volatile parts of the Middle East or producers right here in the United States? And I say that not only for ethanol; I say that for oil, I say that for coal, I say that for nuclear, and I say that for all sorts of alternative energy.

We should be proud of our Nation's farmers and biofuel producers. Efficiencies gained have allowed farmers to produce ever-increasing yields, with greater environmental stewardship, including using less water and less fertilizer. Ethanol production has also seen efficiency gains.

These are facts: In 1982, 1 bushel of corn produced about 2.5 gallons of ethanol. Today's ethanol plants are producing more than 2.8 billion gallons of ethanol. We have a plant in Ida County, IA, that can get almost 3 gallons of ethanol from 1 bushel of corn.

According to the U.S. Energy Information Administration, if ethanol yields per bushel had remained at the 1997 levels, it would have required 343 million bushels—or 7 percent more—of corn to produce the same amount of fuel last year. That corn would have required the use of 2.2 million additional acres—or approximately half the State of New Jersey—just to keep up when we had the more inefficient production of ethanol.

Homegrown biofuels are extending our fuel supply and lowering prices at the pump for consumers. Biofuels account for 10 percent of our transportation fuel today. This economic activity supports American farmers, rural economies, and keeps the money at home rather than sending it abroad.

In recent years, our national security and economic well-being have been too dependent on oil imports—and from where? From tinhorn dictators and regimes that are always trying to harm Americans. We don't need to put a Navy fleet in harm's way to protect shipping lanes from the Middle East when we have biofuels that come right out of the Midwest of the United States.

Our country needs a true ''all of the above'' energy policy, as we all talk about, and biofuels are an important component of that policy.

Do you know what is really wrong with people who sometimes talk about ''all of the above,'' the way I see it, from different segments of energy? There are people who say they are for ''all of the above,'' but they are for none of the below the ground. And then there are people who say they are for ''all of the above,'' but they are for all below the ground but not the things that come from above the ground, such as solar energy producing corn that produces ethanol, as an example, or wind.

In 2005 and again in 2007, the Federal Government made a commitment to homegrown renewable energy when Congress passed the renewable fuel standard. The policy is working. I intend to defend all attacks against this successful program, whether they come from Big Oil, the EPA, Big Food, Big Restaurant, or others.

Secondly, I tried to do some fact-checking by Mr. BROWN and Mr. GREEN, who wrote that article, and I am not very good at saying exactly whether they ought to have one Pinocchio or four, but they ought to look at having a Pinocchio because they are wrong on so many instances.

Mr. President, I ask unanimous consent to have printed in the RECORD the article from the Wall Street Journal.

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

[From the Wall Street Journal, May 15, 2015]

PAYING FOR ETHANOL AT THE PUMP AND ON THE PLATE

(By Mike Brown and Rob Green)

What do a franchise owner of four chain restaurants in Virginia, a food service distributor in Ohio and a poultry farmer in Kentucky have in common? They are all small-business owners who work in local communities and help Americans put food on the table.

But they have also all felt the failure of the federal corn-ethanol mandate, known as the Renewable Fuel Standard. Congress doesn't agree on much lately—but ending a failed policy that stymies small businesses, hurts the environment and increases food prices should be a bipartisan priority.

Since the RFS was implemented in 2005, costs of vital food commodities, including corn, grains and oilseeds, poultry, meat, eggs and dairy, have risen dramatically. Here's one major reason: The federal government's corn-ethanol mandate requires that a percentage of the nation's corn crop be blended into gasoline each year as ethanol. Every year the percentage required increases, diverting more of the nation's corn supply into ethanol fuel. This harms the broader U.S. economy.

Before it hit consumers so hard, the federal corn-ethanol mandate caused higher feed costs for poultry producers, cattle feeders, dairy farmers and others in the food chain. While food costs have always fluctuated due to unforeseeable factors like the weather, the demand artificially created by the RFS has resulted in a significant increase in volatility, which has left prices higher.

Consider: Between 1973 and 2007, corn prices averaged $2.39 a bushel, according to the U.S. Agriculture Department. The average price of corn jumped more than 110% between 2008 and 2014, to $5.04 a bushel. Even though corn prices have recently declined thanks to fabulous weather that produced two consecutive bumper crops, prices are still more than 59% higher than the historical average. Prices could surge even higher if the U.S. experiences anything less than ideal weather.

The resulting increases in feed costs have also affected the American production of beef, pork and chicken, which had increased consistently over the past 30 years but has now leveled off due to the higher cost of feed. As a result, a 2012 study by Pricewaterhouse Coopers estimates that the RFS costs chain restaurants $3.2 billion every year in increased food commodity costs.

Then there are restaurants. Wholesale food prices have outpaced the consumer price index by more than a full percentage point since the implementation of the RFS. In many instances, especially in the restaurant sector, small business owners are not able to pass on higher retail prices to consumers because of market competition—a concept that the corn-ethanol industry is unfamiliar with thanks to a government quota.

As if this were not enough, ethanol production has contributed to global food scarcity and hunger. No country exports more corn than the U.S., but about 40% is ending up in gas tanks, not on the world market. So much corn has been blended into gasoline that the higher percentage levels routinely render boat engines, motorcycles, chain saws and older automobiles inoperable.

Fortunately, lawmakers in Congress see the chicken producer, the food service distributor, the restaurant owner and others in the food chain for what they are: major contributors to the U.S. economy. Legislation has been introduced in both the House and the Senate this year to repeal the RFS corn-ethanol mandate, with broad bipartisan support. Congress should take up this legislation and send it to the president's desk.

The food industry isn't anti-ethanol. Repealing the fuel standard would simply require the ethanol industry to compete in the marketplace just like restaurants, food distributors and chicken farmers do every day—without a government mandate guaranteeing secure and growing sales.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

THE PRESIDENT'S LEADERSHIP AND ISIL

Mr. CORNYN. Mr. President, I come to the floor today to talk about the latest example of President Obama's failure to lead in the international arena, to the detriment of our national security and the security of our allies.

Over the weekend, the Iraqi city of Ramadi in Anbar Province—which is about 70 miles from Baghdad—fell to ISIL. Once a hotbed of Al Qaeda activity, Ramadi had been won back and pacified at great costs in 2006 and 2007. That accomplishment was made possible due to the heroic efforts of some great Americans, such as Navy SEAL Chris Kyle, a Texan whom Al Qaeda called ''the Devil of Ramadi'' and whose service was chronicled in the book and the movie ''American Sniper,'' and LTG Sean McFarland, whose soldiers implemented a brilliant counterinsurgency strategy to win over the local population and drive out Al Qaeda in the process.

By the way, we are proud to have General McFarland today serving as commanding general of III Corps at Fort Hood, TX.

ISIL's latest raid and capture of Ramadi is a significant setback for all of us who seek a stable and prosperous Iraq, and it represents this terrorist army's biggest military victory this year.

Reports of the ISIL takeover of Ramadi are staggering. Faced with the oncoming ISIL forces, hundreds of Ramadi police and security officials fled the city, leaving behind American-made military equipment, including as many as 50 vehicles, now in the hands of our enemies. Those who managed to escape reported that many security officials, government workers, and even civilians were quickly killed execution-style.

In response, the Iraqi Government deployed its Shiite paramilitary troops to the province—a move that some experts believe could lead to even more sectarian strife. The Iraqis are looking for support almost anywhere they can get it, and in the vacuum left by President Obama's poor leadership and indecision, Iran is more than happy to fill that vacuum and take up the slack. It should come as no surprise that on Monday, the day after the fall of Ramadi, Iran's Defense Minister arrived in Baghdad to hold consultations with the Iraqi Ministry of Defense.

Obviously, I am frustrated by the President's lack of leadership and by the Obama administration's failure to put together a strong and cohesive strategy to combat ISIL, but it is more serious than that. It is about what we have squandered in Iraq, what we bought with the blood of Americans and the money that came out of the pockets of American citizens.

Since ISIL began taking large swaths of territory last summer, this administration has taken an approach of paralysis by analysis—in other words, doing nothing. When they do take action, it seems ad hoc and piecemeal and not driven by overarching objectives or any strategy that is apparent to me.

I am not the only one who believes we do not have a strategy in the Middle East. This President's own former Secretary of Defense, Bob Gates, said yesterday: ''We're basically sort of playing this [instability in the Middle East] day to day.'' After affirming his belief that we have enduring interests in the region, Secretary Gates then added: ''But I certainly don't think we have a strategy.'' I could not agree more with him.

Unfortunately, this takeover of Ramadi serves as just the latest example of a President whose policies are altogether rudderless in the Middle East, even as that region is riled with growing instability and grotesque violence. We can trace that to what happened in the area just a few years ago. I alluded to this a moment ago. In 2011, after the President ended negotiations with the Iraqis on a status of forces agreement, the Obama administration proceeded with a misguided plan to pull the plug on American presence in that country. In doing so, he squandered the blood and treasure of Americans who fought to give the people of Iraq a chance.

While it is true that the Iraqis had not agreed to the U.S. conditions to an enduring American presence, including legal immunity for our troops, this administration gave up and failed to expend the political capital necessary to secure a status of forces agreement and to preserve the security gains we had made together with our allies in Iraq. As a result, those security gains made in many areas of Iraq since the height of the violence in 2005 and 2006 have since evaporated.

In 2012, as terrorist groups were flourishing in Syria, the President refused to initiate a program to arm vetted moderate Syrian rebels, disregarding the recommendations made by his most senior advisers, including then-CIA Director David Petraeus, then-Secretary of State Hillary Clinton, Joint Chiefs of Staff Martin Dempsey, and then-Secretary of Defense Leon Panetta. He rejected the advice from his most senior national security adviser. Instead, the President publicly remarked in January of last year that ISIL was the JV team of terrorist groups. And just a few months ago, President Obama boldly said that ISIL was ''on the defensive.'' Let me repeat that. Just a few months ago, President Obama claimed ISIL was ''on the defensive.'' That is not exactly the case today, nor was it really then. That is not exactly the kind of leadership we need from our Commander in Chief.

By giving our troops a difficult mission to degrade and ultimately destroy ISIL but not providing them with the strategy and the resources they need to do so, the President is essentially making them operate with one more hand tied behind their back. We know we have the most capable military in the world, but we cannot win a fight with our hands tied behind our backs or with these constraints—politically correct constraints—the President wants to make and not commit the resources and the strategy and the focus we need in order to win. So I hope the President will reconsider after this latest dramatic setback in Ramadi. I hope President Obama will provide us with a strategy to degrade and destroy ISIL.

In Ramadi—a major city and capital of Iraq's largest province—we see much more than just a symbolic setback, and I bet Chairman Dempsey wishes he could take those words back—he called it merely symbolic.

We see a dangerous development and a great obstacle to a more stable Iraq

and thus a more stable Middle East. But this is what gets to me: We had more than 1,000 brave American troops die in Anbar Province during combat operations since 2003. I do not want to see their lives having been given in vain and squandered. So I hope that this is a wake-up call to the Obama administration and that they will provide the Congress and the American people and our troops a clear path forward to defeat ISIL and to rid the world of this terror army.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, 4 years ago, I joined my Republican colleagues on the Senate Finance Committee and voted to give the President of the United States trade promotion authority—4 years ago. I have been a supporter of trade promotion authority for a long time, but I also realize that when it comes to trade, there are issues on which we have to work on together.

We are at a juncture now where it is hard to move forward here in the Senate. I would say to my colleagues on the other side of the aisle that there are basic things about the future of America in a global economy—the American people want to be assured that there are going to be tools for them to compete.

So the fact that the Finance Committee and the negotiators of the trade promotion authority spent months and months on whether we were going to have TAA—which is a program that helps laid-off workers who are impacted by trade—because some House conservatives did not support trade adjustment authority—workers being retrained when they are affected by trade agreements—we spent months and months because some conservatives in the House do not believe in government and do not believe in this program that helps support laid-off workers.

Then we had to spend weeks and weeks out here because people on the other side of the aisle—again at the behest of conservatives in the House—did not want to support enforcement.

Now we are at this juncture because the same conservatives, because of an ideological belief by the Heritage Foundation—not something about business and labor, no; actually, business and labor support export tools, such as a credit agency that helps them sell their products. Again, this conservative group is holding up trade legislation because they do not think that it meets their political standards, as my colleague from South Carolina said, Senator GRAHAM, that it is all about some private organization they are trying to politically atone to.

I say to my colleagues on the other side of the aisle that I have been a supporter of TPA for a long time, but I do not plan to support a cloture motion and I do not plan to support moving ahead until we stop catering to this very minority group that does not support the basic tools the American people want to see when it comes to trade. They want to know that if they lose their jobs, they can get retrained. They want to know that if export markets are open, they will have some ability to sell their products to those developing markets that may not have a bank there but can help get financial support from a bank in the United States with the help of a Federal export credit agency. And yes, we have to have some basic tools on enforcement.

So if the other side of the aisle wants to resolve these problems and move ahead on a trade agreement, they have to stop catering to the conservatives in the House—and probably some of them do not even support trade overall—and start working with the people who do support trade.

As I said 4 years ago in the Finance Committee when I supported TPA, these policies are important tools for the U.S. economy. I feel strongly that in the developing world, trade can be a great asset in helping stabilize regions. I do not want to hold down other growing middle classes around the globe. We do not want to lose jobs here in the United States because of it.

So let's have the tools that go along with trade, and let's get these bills passed. But if we are going to continue to cater to a group in the House who claims they do not want government, I do not see how, in this debate, we are going give the American people the tools that will give them security.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, first, I would like to offer my great thank-you to the Senator from Washington for advancing this very important bipartisan bill.

We have worked long and hard in my office and with Senator KIRK to try to fashion a bill that addresses the vast majority of issues that so many people have or allege to have regarding the Export-Import Bank. At the same time we are stalling that critical piece of infrastructure in our trade apparatus, China and India are pouring billions of dollars into their similar institution to recruit and to invest in other countries to make sure their manufacturers and make sure the jobs in their country are safe. We are unilaterally disarming, and we are taking huge chances by not moving forward on the Export-Import Bank. And I share my colleague's comment: Who are we listening to?

This is one of those rare moments and one of those rare issues where we have the American business community, the chamber of commerce, American manufacturers—all the people on that side of the issue and American labor together. So what is the issue? The issue is scoring by conservative groups. The issue is that you might not get the checkmark behind your name if you actually support American workers, American jobs, and American manufacturing.

This is an issue we are passionate about, and I stand with Senator CANTWELL from Washington and support her. Until we know there is a path forward and that the charter for the Ex-Im Bank will not expire, that we will not play chicken with our economy and with our exports—until we know there is a path forward, how can we really say we are protrade? How can we really stand on the floor here as we are discussing trade and trade implications of TPA and TPP and all of the initials—TTIP, ISDS, and all of the things people might be listening to and saying: What are they talking about? These are important tools and an important apparatus and they represent a huge part of what we need to do when 95 percent of all consumers live outside this country, but we need to do it in a way that recognizes that American workers are part of this structure and that we have to have the tools other countries utilize in order to make sure we are moving forward.

I give my great public thanks to Senator CANTWELL for her brave fight and knowing that as the chief Democratic sponsor of the bill we are promoting, I stand with her. I stand with her today.

Mr. President, I also want to talk today about an issue that is important to North Dakota. It is interesting that we are talking about eliminating trade barriers and improving opportunities for access to markets when we have a self-imposed access-to-market problem, and that is the trade embargo on Cuba. It is a barrier our government puts on our own farmers and ranchers, and it holds back their ability to export and hurts their bottom line. I am talking about the U.S. embargo with Cuba, of course, specifically on private—private, private, private—business activities that could enhance the sale of our agricultural goods to Cuba.

My great friend from Arkansas Senator BOOZMAN and I filed an amendment which would free our exporters to provide private—private, private—credit with no risk to the government or taxpayers for exports of agricultural products to Cuba. We had a hearing on this in the agriculture committee, and I must say it was the single issue raised by all of the experts on how we could, in fact, open our markets to Cuba if we would allow private-sponsored credit for these exports. This is a simple change to our regulation that will make our agricultural exporters more competitive against rice growers in Vietnam and corn growers in Brazil.

We know we are the highest quality producer of agricultural products, and many of those products are grown in my great State of North Dakota. Yet we don't have access to that market because Cuban purchasers don't have access to credit.

Unfortunately, under the current regulations, our government has erected a trade barrier. While we talk about TPA, trade promotion authority, and increasing export opportunities, we

need to look at what we can do to increase opportunities for our own producers here right now. It does not take a long, drawn-out negotiation, costs no money, and just makes sense.

I urge my colleagues to join with me and Senator BOOZMAN in this important effort to remove our self-imposed trade barriers on our agricultural producers and to allow a private investment and sponsorship of the purchase of agricultural products in Cuba. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, this has been an interesting few days as we have seen the Senate operate the way it is probably designed to operate. It is not supposed to be the fastest legislative body in the world. It is supposed to be one that goes over issues slowly and gives those issues full consideration.

I am so pleased the bill before us has been through the committee process. It has been years since we have seen bills go through that committee process. Virtually all of the bills are coming through the committee process this year, and that means several hundred amendments have already been offered to this bill. A lot of them were considered in committee, some of them were considered duplicative, of course, but it brought this bill to the floor, which is very important for the economy of the United States.

I hope we can work through the process and get the bill finished. In fact, I am relatively certain we will. It is not the prettiest way of doing it, but it is the way it gets done and has been getting done for centuries in the United States.

A BALANCED BUDGET

Mr. President, what I really want to talk about today is the importance of a balanced budget. Over the past few weeks, we have seen America reacting to a Congress, and especially the Senate, which is back to work doing the people's business. The basic task of governing seems to have eluded this normal legislative body over the past 8 years and has decimated the faith and trust of hard-working Americans who yearn for a government that is both accountable and effective, and that is why passing a balanced budget represented an important step forward.

Here are just a few of the headlines from around the Nation: ''Senate passes first joint congressional budget in six years,'' ''Senate Passes Cost-Cutting Budget Plan,'' ''Budget 'A Feat Of Considerable Importance,''' ''Balanced Budget Will Focus on 'Every Dollar Spent,''' ''Balanced Budget, A Step Forward,'' and ''Congress approves the first 10-year balanced budget since 2001.''

We know passing a budget was important because it symbolizes a government that is back to work, but it is also important to understand why passing a balanced budget is so vital to our Nation.

What is the process? The Senate Budget Committee is tasked with the responsibility of setting spending goals. Congress has other committees that authorize government programs and are charged with overseeing their efficiency and effectiveness. We also have committees that allocate the exact dollars for these programs every year, but the Senate Budget Committee sets the spending goals. In other words, we set limits. This is why passing a budget is so important for our Nation. It lets the congressional policymakers who actually allocate the dollars get to work immediately by following our spending limit. This year, we are giving them an early start, and Leader MCCONNELL is committed to allowing the Senate to do its job, and that means debates and votes on all 12 appropriations bills.

What is the importance of a balanced budget? A balanced budget approved by Congress will play a crucial role to help make government live within its means and set spending limits for our Nation.

A balanced budget will allow Americans to spend more time working hard to grow their businesses or to advance in their jobs instead of worrying about taxes and inefficient and ineffective regulations. Most importantly, it means every American who wants to find a good-paying job and fulfilling career has the opportunity to do just that.

A balanced budget will also boost the Nation's economic output, but first we must get our overspending under control because Congress is already spending more tax revenue than at any point in history. If we can do that, we can help boost the economy and expand opportunity for each and every American.

The big question is, What happens if interest rates go to their normal historical level? A balanced budget provides Congress and the Nation with a fiscal blueprint that challenges lawmakers to examine every dollar we spend. This is crucial because we currently spend about $230 billion in interest on our debt every year, which is a historically low interest rate of 1.7 percent. The Congressional Budget Office tells us that for every 1 percentage point that our interest rates rise, it will increase America's overspending by $1,745 billion over the next 10 years. That is a huge hit.

To provide a clearer picture of how dire our Nation's fiscal outlook is, we have a looming debt of $18 trillion, and it is on its way to $27 trillion. If the interest rate were to go to a modest 5 percent, we would owe $875 billion a year just for interest, which does not buy us anything. That is more than we spend on defense; that is more than we spend on other government agencies.

Interest on the debt could soon put America out of the business of funding defense, education, highways, and everything else we do. It is time to get serious. It is time both parties get serious about addressing our Nation's chronic overspending.

In the budget, defense was given $90 billion more than the budget caps and $38 billion more than the President requested. We know both sides want the caps from the Budget Control Act removed, but at what price for our Nation and its hard-working taxpayers?

Our military leaders have already told us the debt is a threat to national security. Removing the threat of sequester by raising these debt caps without increasing the debt in the short term would require raising taxes. When it comes to defense, we are literally trying to outbid the President, who, with a Democratic Congress, raised taxes to get his budget to that level.

Last year, Congress funded items the Department of Defense didn't approve or ask for, and costs for major equipment exceeded approved amounts by billions—that is with a ''b.'' I know small businesses that were deprived of bids by companies that provided products different from the specs with no consequences. That is not fair to our troops or to our taxpayers. We should get what we ordered, and somebody needs to make sure that happens.

It is time for Congress to truly work together to tackle our overspending and achieve real results and real progress for American families who are counting on us.

How do we boost economic growth? American families understand that you cannot spend what you don't have and expect us to scrutinize every dollar we spend just like they have to and must do. In many ways, if the government would get out of the way, we could increase jobs by expanding the economy. A boost in economic growth means more real jobs from the private sector and small businesses across the Nation, not government ''make work jobs.'' In fact, the Congressional Budget Office tells us that if we were to increase the gross domestic product, which is the private sector growth, by 1 percent, that would provide an average of nearly $300 billion in additional tax revenue every year.

How do we do that? One way is to reverse some of the many regulations that burden families and small businesses that provide little or no benefit. For many of these policies and regulations, we need to return to common sense, and that is not being done today.

When we continually overspend year after year, we have the opposite effect on private sector jobs and economic growth that can actually lead to more sales and more jobs. Expanding the economy is the best way to raise money for government services, not by raising more taxes.

Another important way to help the growth of our economy is to make the government more effective. If government programs are not delivering results, they should be improved or, if they are not needed, they ought to be eliminated. We need to be looking at those. The government has to expect the same tough decisions hard-working taxpayers are making every day.

This is Small Business Week, and I want to mention my appreciation for

Craig Kerrigan of the Oregon Trail Bank in Wyoming for writing a little article about the real issues for small business. Small business is the motor that drives this economy. He said:

If they can't make a profit, no one benefits. This is the reality: They will tell you that the biggest threats and challenges they face in today's economy are health care, taxes and excessive regulations.

A regulation affects a small business much more than it does a big business because they don't have a lot of people to spread the work over.

Going back to Craig Kerrigan's article:

They want to provide competitive salaries and benefits, and in most cases they do. But any cost that is forced upon them they either pass on to the consumer or they go out of business.

It is interesting to note that those who force these costs upon small business are not the ones paying for them, and it is always easier spending other people's money.

Mr. President, I ask unanimous consent that the entire letter by Craig Kerrigan be printed in the RECORD at the conclusion of my remarks.

How do we get a more effective government? One of the first places Congress should start is by reviewing the 260 programs whose authorization—that is their right to spend more money—has expired. Some of these programs expired as long ago as 1983, but we are still spending money on them every year. That means we have been paying for these expired programs for more than 30 years. It is not just the length of time these programs have overstayed their welcome, the funds we allocated to them every year are more than what the law called for. In some cases, that means we are spending as much as four times what we should be. You have to take care of your own doorstep.

Yesterday, I had an oversight hearing for the Congressional Budget Office, which comes under the direction of the Budget Committee. It was the first oversight hearing in 33 years. Everybody needs to take a look at the programs they are in charge of and see if there are not some changes that ought to be made since the invention of the mobile phone, and, of course, that was a mobile phone about that big.

The 260 programs that have expired are costing us $293 billion a year. That is over $2,935 billion—or $2.9 trillion—over 10 years. Eliminating these programs alone would almost balance the budget.

In business, programs are reviewed every year or sometimes every week to see if they still contribute to the business and its strategic plan, and if there is not some improvement that will make things work better, they often look for small savings to help strengthen the organization and contribute to its bottom line. But in Washington, programs are not reviewed, let alone questioned, let alone scrutinized. Not even big amounts are questioned.

Just think of how long it has been since we have taken a close examination of what we are spending money on. In 1983, ''The Return of the Jedi'' was the top movie and Americans were obsessed with the Rubik's Cube.

Savings are usually found in the spending details, but Congress has not examined the details. It just has the big picture, which was painted long ago and has now expired. It is time for each committee to take a look at these programs and decide if they are even worth funding anymore. After all, a project not worth doing at all would not be worth doing well or would not be worth continuing funding for it. But how would committees know if they have not looked at the program in years? How would they know if they don't have a way to measure how well the programs are working?

When I first came to the Senate, Yellowstone Park was going broke and threatening to shut down. Every year they said they were running out of money in August, and that is the prime time for the season. I checked the spending bill covering the park, and I found out it only lists how many employees and the total millions of dollars to be spent there. I asked for the details. Both the spending committee and the Department of Interior told me that was as much detail as they had. I asked for a printout of how the money was spent in the previous year. They said it was not available. I heard about millions of dollars in delayed maintenance. I asked for a list of what that consisted of, and I was sent a list of new buildings they wanted to construct. That is not delayed maintenance.

In 1999, the Park Service was cited by the Wyoming Department of Environmental Quality for raw sewage that was flowing into the Madison River, which prompted a request to Congress for emergency repair funds. I asked why that wasn't taken out of the National Park Service emergency budget. There was an emergency fund with plenty of money available immediately for the problem at that time. I didn't get an answer, but I found out that they got more by asking for additional funding at a time of crisis. That is not how government spending is supposed to be done.

That is why we need to have a balanced budget. That is why we need to have people scrutinizing the items that are under the jurisdiction of their committees.

A balanced budget amendment is what many of the States are working on. We better show taxpayers that Congress is committed to a balanced budget, to make it ever more effective, because we are running out of time. It is not just because of the increase in the interest rates that are possible here, but currently, lawmakers in 27 States have passed applications for a Constitutional Convention to approve a balanced budget amendment, and there are new applications in nine other States that are close behind. If just seven of those nine States approve moving forward on the balanced budget issue, it would bring the total number of States to 34 States. That would meet the two-thirds requirement under article V of the Constitution and force Congress to take action on a balanced budget amendment. If this happened, one of the most important functions of Congress—the power of the purse—would be drastically curtailed, because there would be a new constitutional limit on what Congress would be allowed to borrow.

Now, I mentioned before that I think we have been overspending. We are scheduled to overspend by $468 billion this year. How much do we get to actually make decisions on? That amount is $1,100 billion. If we were to balance the budget right now, we would have to do a 50-percent cut in everything we do, and that is not even talking about an increase in interest rates.

So, in conclusion, Americans are working harder than ever to make ends meet. Shouldn't their elected officials be willing to work harder too? We need to pass a balanced budget as an important step, but that is just a first step and, unfortunately, that was the easy part. Congress has to get serious about tackling its addiction to overspending and once again become good fiscal stewards of the taxes paid by each and every hard-working American taxpayer.

Earlier this month, on the 70th anniversary of Victory in Europe Day—or V–E Day—our Nation's Capital had the rare privilege of seeing and hearing World War II airplanes, our Arsenal of Democracy, fly over the National Mall and the U.S. Capitol Building. This flight and these planes remind us that as a nation, we rise together or we fall together. Those planes also remind us that when we work together, we succeed together.

Let us commit to work together to end our overspending and balance our budget.

I yield the floor.

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

[From the Wyoming Tribune-Eagle, May 19, 2015]

FOCUS ON REAL ISSUES FOR SMALL BUSINESSES

(By Craig Kerrigan)

In recognition of Small Business Week, I thought it appropriate to share some thoughts about small businesses that are not discussed as much as I feel they should be.

It is frustrating how many articles are written about our economy and the effects it has had on small businesses since the Great Recession, but they always seem to take an approach based on surveys, statistics, theories, opinions, analysis and general assumptions; almost illusory.

Let me offer a suggestion.

I am sure almost all of you have a family member, friend or acquaintance who owns a small business here in Cheyenne or Laramie County.

JUST ASK THEM

If you do, just ask them what is happening in their business and about the management

decisions they have had to make to navigate the issues they face every day as they relate to our economic and political environment.

No more theories as to what should be happening, just a simple question as to what is really happening, simply put, where theory meets reality.

For the purpose of this article, I will use businesses that employ between one and 50 employees with gross receipts or sales up to $7.5 million, although the definition varies from industry to industry.

They are the true backbone and lifeblood of our local and national economy as they create 70 percent of new jobs. They are what I call the forgotten many.

You can find someone in almost all business sectors: retail, construction, real estate, manufacturing, professional services and food service, to name a few.

Many of these small businesses are owned and operated by our friends and neighbors, people who go to work every day to provide a service that benefits our local economy. They have no set hours, no guaranteed benefits, no stock options and no perks.

In almost all cases, they started their business with their hard-earned savings, conversion of retirement accounts from previous employment, gifts from family and credit from banks. They have pledged their homes, vehicles and other personal property just to find enough cash to start their business.

Many have second jobs and take no salary from the business until it can be profitable.

I have been blessed to have been a banker in Cheyenne for almost 40 years, and I have been given a unique perspective from being both a banker and also an owner of a small business as many small community banks are privately and family-owned small businesses.

I have had the chance to be involved in helping to facilitate business startups, expansions, restructures and unfortunately liquidating some that have had to close.

Every business has unique characteristics with the type of product or service they sell, the experience of ownership and management and the demographics of employees.

They are in business to make a profit, but more importantly, they have a passion for what they do. They drive economic growth through investment, innovation and entrepreneurship. They support not only themselves and their families, but they are responsible for the support of their employees and their families.

BIGGEST THREATS

If they can't make a profit, no one benefits. This is the reality: They will tell you that the biggest threats and challenges they face in today's economy are heath care, taxes and excessive regulations.

They want to provide competitive salaries and benefits, and in most cases they do. But any cost that is forced upon them they either pass on to the consumer or they go out of business.

It is interesting to note that those who force these costs upon small businesses are not the ones paying for them, and it is always easier spending other people's money.

The new health-care law affects decisions they have had to make as to the number of employees they can have and the type of benefits they can offer. Many are limiting full-time employees to less than 50 to avoid the costs of mandated health coverage.

If they don't know what the next surprise is going to be with our tax code, it is almost impossible to project income and expenses. And if they are forced to follow a new regulation, they have to hire non-income producing overhead just to make sure they don't get fined or worse.

Many regulations are needed; it is when they are inefficient, duplicative and applied based on a ''one size fits all'' approach that they become overwhelming and result in unintended consequences.

How do I know this? As a banker, you cannot be an effective partner in the success of any business unless you analyze financial information and communicate with management throughout the year.

Numbers can be interpreted differently, but they never lie, and they are not based on theories. You have to know the business of the business and make decisions to help them make the necessary adjustments.

Sounds simple, but there are many different business structures—sole proprietorships, corporations, partnerships and limited liability companies. These are businesses that do not have the luxury to staff human resources, compliance, legal or accounting departments.

Small businesses must handle many of these internally, or hire third-party vendors, which is added expense. The common thread I see at this time is frustration, uncertainty and a feeling of failure due to costs beyond their control, and because of this they are reluctant to reinvest profits and hire more employees.

So the next time you read an article about what should be happening, walk across the street or drive across town and talk with someone you know that owns a small business.

THANK THEM

The first thing you should do is thank them for everything they do to make our community a better place. Many of them are members of our Chamber of Commerce and unselfishly give of their time and money to support other small businesses.

Don't be indifferent to our economic and political environment because the reality is you are paying for any increased costs to small businesses in the prices you pay.

So at the end of your visit, you will most likely hear ''welcome to the real world.''

The PRESIDING OFFICER (Mrs. ERNST). The Senator from Hawaii.

Mr. SCHATZ. Madam President, I wish to join my colleagues in voicing my opposition to granting fast-track authority. I oppose the procedures contained in the bill, and I am seriously concerned about using fast-track to pass trade agreements that don't reflect the best interests of the American people and can undermine the prerogatives of the Congress.

Some who support fast-track would have us believe that opposing this bill and TPP means opposition to a free market, to trade, and to commerce; but that is not true. Commerce is essential, and we should be promoting it. But corporate interests should not be the driving force for public policy decisions on public health, consumer safety, and the environment.

Just this week, a WTO ruling on our country-of-origin food labeling law provided a striking example of how what is called free trade can be used to erode consumer protection. The country-of-origin labeling law was passed by Congress, and it requires producers of meat and chicken to provide information to consumers on where the animal was raised and slaughtered. If we ask most people, they would say they want to know if their beef is from Texas or from Taiwan. And even if one isn't particularly passionate about that issue, I think most people would agree that it is squarely within the prerogatives and the constitutional duties of the U.S. Congress to decide.

Consumers in the U.S. want to know where their food comes from. Through a legitimate, democratic process, we passed a law to provide consumers with this information. But no matter how we have revised the rule pursuant to the law, it is apparently still not in compliance with our WTO commitments. It seems that we will have to repeal the law to avoid trade sanctions.

While our WTO obligations are not the same as our commitments under a free-trade agreement, it doesn't require too much imagination to see how other U.S. laws will buckle under future trade agreements. This is why the dealbreaker for me is the investor-state dispute settlement, or ISDS for short.

ISDS provides a special forum outside of our well-established court system that is just for foreign investors. These investors are given the right to sue governments over laws and regulations that impact their businesses—a legal right not granted to anyone else. This forum is not available to anyone other than foreign investors. It is not open to domestic businesses. It is not open to labor unions, civil society groups or individuals that allege a violation of a treaty obligation. The arbitrators that preside over these cases are literally not accountable to anyone, and their decisions cannot be appealed. To date, nearly 600 ISDS cases have been filed. Of the 274 cases that have been concluded, almost 60 percent have settled or have been decided in favor of the investor.

It is true that when a tribunal rules in favor of the investor, the arbitrators can't force the government to change its law, but they can order the government to pay the investor, which has the same effect. There is no limit to what compensation foreign investors can demand. The largest award to date was more than $2 billion.

For a developing country that must pay this award, sometimes it represents up to a third of their GDP. Most governments cannot risk such a settlement and end up avoiding this kind of conflict altogether. The government often agrees to change the law or regulation that is being challenged and still pays some compensation. The threat of a case can be enough to convince a government to back away from legitimate public health, safety or environmental policies.

ISDS cases cost millions of dollars to defend and take years to reach their final conclusion. The high profile cases filed by Philip Morris International challenging cigarette packaging laws have had a chilling effect around the world. Several countries have been intimidated into holding off on passing their own laws to reduce smoking. Every year of delay is a victory for tobacco companies. They get 1 more year to attract new, young smokers. In the case of tobacco, the cost of ISDS could be human life.

I would hope that if we empower corporations to challenge democratically elected laws and regulations, that we would be doing so for an extremely compelling reason. But here is the thing: The rationale behind ISDS is extremely thin. Advocates claim that investor protections such as ISDS draw foreign investment into a country, but no one has actually been able to demonstrate that this link exists. Studies have not even been able to show a significant correlation between investor protections and the level of foreign investment in that country. Instead of driving decisions to invest, ISDS provisions are being manipulated by multinational corporations.

Some companies seem to be setting up complex corporate structures explicitly for the purpose of taking advantage of existing ISDS provisions. This is what Australia is alleging that Philip Morris did to challenge Australia's tobacco laws. The Philip Morris Hong Kong entity bought shares in Philip Morris's Australian company just 10 months after Australia announced its cigarette plain packaging rules. It seems that Philip Morris did this for no other purpose than to gain access to the ISDS provision in the Hong Kong-Australia Bilateral Investment Treaty.

ISDS is just another arrow in the quiver of legal options available to multinational corporations and no other entity or person. The consequences for public health, safety, and the environment far outweigh any real or imagined benefit of ISDS. For these reasons, I oppose fast-track and any trade agreement that contains an ISDS provision.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. WYDEN. Madam President, I spoke a little bit this morning about this whole issue—and a very serious issue it is—of currency manipulation. In effect, we are going to have two choices with respect to this issue, one offered by the chairman of the Finance Committee, Senator HATCH, and myself, and one offered by Senator PORTMAN and others.

AMENDMENT NO. 1299

I wish to take a few minutes to raise what are my biggest concerns with respect to the amendment offered by the Senator from Ohio, Mr. PORTMAN, and try to put this issue in context. What is particularly troubling to me is it seems to me that the Portman amendment would outsource the question of the Federal Reserve's intent in decisionmaking to the whims of an international tribunal, and I think that is very troubling. That is why Chairman HATCH and I have thought to take a more flexible approach.

I am going to outline how I have reached that judgment so that colleagues, as we turn to this question of currency, have a bit more awareness of what is at stake. As I indicated already this morning, we will be discussing this particularly in the conference committee that is going to take place next month when the House and the Senate get together to talk about currency and other critically important enforcement issues.

I fully agree with my colleagues who have been saying this is a very important issue and our government must do more to target countries that harm our economy by artificially deflating their currency. What is at issue is making sure we proceed in a way that really redounds to the benefit of our country, our workers, and our business.

In the process of taking aim at foreign currency manipulators, it is especially important to make sure that this Senate does not cause collateral damage to the Federal Reserve and our dollars. We all understand the Federal Reserve uses monetary policy as a tool to stabilize prices and boost employment. The right solution is to make sure that our country gets the upside of going after those who manipulate currency and avoids the downside of restricting the tools that Janet Yellen and those in charge of monetary policy may want to use.

The bipartisan trade promotion bill now before the Senate includes a first—many firsts but one in particular. For the first time currency will be a principal negotiating objective. What Chairman HATCH and I have sought to do is to strengthen that and to take yet another step. We direct the administration to hold our trading partners accountable when they manipulate currencies by using the most effective tools available: enforceable rules, transparency, recording, monitoring, and a variety of cooperative mechanisms. My view is that what Chairman HATCH and I are seeking to do here strikes the right balance. We get the upside of confronting unfair currency manipulation, and we don't pick up the downside, tying our hands with respect to policy options that are completely legitimate and important.

One of those policy options that I feel especially strongly about is ensuring that the Fed has the ability to use policies to strive towards full employment. So for me, this issue really comes down to making sure we have all the tools at the Fed and elsewhere for helping to create good jobs and economic stability—jobs that pay higher wages and help our communities prosper.

The Portman amendment is very different than what I and Chairman HATCH have been talking about. Under the Portman amendment, our country would be subject to dispute settlement in an international tribunal, which means that there would be trade sanctions. Now, Federal Reserve Chair Janet Yellen has expressed serious concern that this type of provision could ''hamper''—these are Janet Yellen's words—that this type of provision could ''hamper or even hobble monetary policy.'' The Chair's concern—Janet Yellen's concern—is that because monetary policy can impact currency valuation, we could end up tying our hands and, in effect, taking one of the Fed's important tools out of their economic toolbox.

For example, a number of countries have argued that the Fed's quantitative easing policy unfairly values our dollar. Now, I want it understood that I think those countries are dead wrong—dead wrong—in making that argument. But we ought to realize that those countries that have sought to cry foul argue that what the Fed did to bring down the unemployment rate was in effect an unfair strategy for increasing exports. Colleagues, as we think about this currency issue, consider what could happen if the United States was subject to dispute settlement by an international tribunal on this issue.

That is why I am concerned that taking the path of the Portman amendment would, as I have described, outsource the question of the Federal Reserve's intent in decisionmaking to an international tribunal. I think Americans are going to be very skeptical of the idea that, in effect, we are going to have this international tribunal trying to divine essentially what the Federal Reserve's intent was. I personally do not like the idea at all of outsourcing this judgment to an international tribunal. I think it could have very detrimental consequences both to the cause of trade and to our economy.

Just yesterday, Treasury Secretary Lew said he would recommend a veto of a TPA package that included this type of amendment, because he, too, thought it would threaten our Nation's ability to respond to a financial crisis. So it is going to be important to get this right, to make sure that our trade agreements have the upside of being strong in the fight against currency manipulation, but to make sure that we also avoid the downside of restricting our monetary policy tools.

I hope my colleagues will think about the unintended consequences of the Portman amendment. If we were to have another unfortunate financial crisis—and no one wants that—we all want to make sure that the Federal Reserve has the full array of economic tools to get our economy moving again and to keep workers on the job.

So we are going to be faced with this judgment, and I hope my colleagues will say that the approach Chairman HATCH and I have offered is one that will allow us to build on the first-ever negotiating objective for currency that is in the bill and accept our amendment and recognize that, as I stated earlier, we are going to have another bite at the apple when currency is certain to be an important part of a Customs conference between the House and the Senate in June.

With that, I see my colleagues are here, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, let me first say that I thank Senator WYDEN for his hard work. I am one of those who believe it is important for Congress to pass trade promotion authority. I don't believe we can complete the TPP without trade promotion authority. I think TPP is an important strategic partnership for the United States as well as an economic partnership for the United States.

Having said that, I listened carefully to Senator WYDEN where the administration has raised an objection to a particular amendment and saying if that gets on the bill, they would veto the trade promotion authority. I say that because many of us who support TPA have said: Look, let's make sure we get it right. Let's make sure that we have an open amendment process so that we can try to make this the strongest possible bill, because we don't get that many opportunities to take up trade legislation.

I just mention that because yes, I come to the floor to say that we need trade promotion authority. When you look at the fact that we are a democracy with separation of the branches of government, we cannot negotiate—535 of us—with our trading partners and enter into an agreement. We have to delegate that negotiating authority, and that is what TPA does. At the time we delegate that, we also must make it clear what our trade objectives are about, and we also must take advantage of that opportunity to protect workers' rights legitimately and make sure we have a level playing field for American companies. I think that is our responsibility.

In the discussion of this bill, I want to acknowledge that we do have part of this—the trade adjustment assistance. That is important to American workers. We have Customs legislation that I wish was in this bill, because I am concerned as to whether both will reach the finishing line. But it deals with strong enforcement, and ''level the playing field'' currency issues are all dealt with in a separate bill that we passed earlier. I guess last week we passed the legislation on the Customs.

Let me just talk for a moment about trade promotion authority, and say that we have to be very clear about our expectations. I want to compliment Senator WYDEN and Senator HATCH and the Senate Finance Committee. In reading this legislation—and I hope you all had a chance to do it—you are going to find that this really does take our delegation of authority and our expectations to a much higher level than we have ever done on areas that have not been traditionally as clear on Congress.

I will just mention a few of those. Our overall trading objective is very clear to deal with labor standards. In quoting from the bill that is before us, on the overall negotiating objectives: ''to promote respect of worker rights and the rights of children consistent with core labor standards of the ILO (as set out in section 11(7))''—defined as the International Labour Organization—''and an understanding of the relationship between trade and worker rights . . . to promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor . . .''

That is in our overall objective. I want to talk a moment about the principal negotiating objectives, because there is greater consequence to the principal negotiating objectives. There are provisions included in the principal negotiating objectives that are different from what we have done in any other TPA bill.

First, yes, it does deal with the core labor rights. The principal negotiating objective that the administration must show us that they have done deals with the ''adopts and maintains measures implementing internationally recognized core labor standards . . .'' that is included in there.

Included in the principal negotiating objectives is the requirement for environmental law: ''its environmental laws in a manner that [cannot weaken] or reduces protections afforded in those laws in a manner affecting trade or investment between the United States and that party . . .''

So what we have done is that we also put in there: ''does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction . . .''

I read that into the record because I want to make it clear that if you believe we should be negotiating trade agreements and you believe that it only can be done through the administration and can't be done through Members of Congress individually negotiating a trade agreement, and you believe you need to be clear as to what we expect, the principal negotiating objective is where you include that language. And we have been very clear in the principal negotiating objectives in regards to core labor standards and environmental standards, because we know that to have a level playing field—the countries we are negotiating with do not have the same high standards that we have for labor, do not have the same high standards we have for the environment—we want to make sure we are not placed at a disadvantage. So it is in the principal negotiating objectives.

But we have gone further than that. In the principal negotiating objectives we put for the first time anticorruption provisions. That is in the principal negotiating provisions: ''to obtain high standards and effective domestic enforcement mechanisms . . . [to] prohibit such attempts to influence acts, decisions, or omissions of foreign government officials or to secure any such improper advantage''—these are anticorruption provisions—''to ensure that such standards level the playing field for United States persons in international trade and investment. . . .''

Why is this important? Because in some countries, including those countries with which we are negotiating, there are practices where companies that want to participate in government contracts have to deal with kickbacks or have to deal with bribery.

Well, American companies cannot do that. We have laws that prohibit that, but there should not be anyone dealing with that. In the principal negotiating objectives, we instruct our negotiators to deal with these anticorruption issues. The administration must show we have made progress—not only progress, that we have enforceable standards against corruption that would disadvantage American companies doing business in those countries.

That is a huge step forward on our anticorruption issues, but we go further than that. I am very proud of an amendment I offered that was adopted to the trade promotion authority dealing with good governance, transparency, the effective operation of legal regimes, and the rule of law of trading partners. This is, again, a principal negotiating objective which says we have to strengthen good governance, transparency, the effective operation of legal regimes and the rule of law of trading partners of the United States, through capacity building and other appropriate means, and create a more open Democratic society and—let me add this, this is in the bill—to promote respect for internationally recognized human rights.

That is a principal negotiating objective. We are talking about freedom of speech, freedom of assembly, association, religious freedom. We have instructed the administration—if they accept our bill and sign it into law—come back to us on how we have dealt with advancing good governance, transparency, and respect for internationally recognized human rights in the trade agreement that we brought forward.

This is the first time we have included anything similar to this in a trade promotion authority act. So this is a new level of expectation of what we expect to do in our trade agreements. I really want to emphasize that because we have not been bashful in the past using trade to promote human rights. We usually do it when we have a specific opportunity. We did it well before our time in Congress when Jackson-Vanik was passed, dealing with Soviet Jewry being able to leave the former Soviet Union.

We also used trade as a hammer to bring down the apartheid government of South Africa. Most recently, we used trade as a hammer when we needed to deal with normal trade relations with Russia in regard to a WTO issue—where we attached the Magnitsky law

to it—that I was proud to work on with Senator MCCAIN. I thank Senator MCCAIN for his strong leadership on the Magnitsky law.

We used that opportunity, a trade bill, to advance international human rights issues in holding Russia accountable to its standards and what it did in regard to Sergei Magnitsky. So we should take advantage of the trade promotion authority act to advance basic human rights, particularly when we are dealing with countries that, quite frankly, are challenged in that regard.

I want to read one other provision that is in the current bill dealing with trade promotion authority and dealing with the principle negotiating objectives. It spells out very clearly that it is a principal negotiating objective. We have enforcement in it. It says:

> To seek provisions that treat United States principal negotiating objectives equally with respect to the ability to resort to dispute settlement under the applicable agreement, the availability of equivalent settlement procedures, and the availability of equivalent remedies.

What does that mean? What that means is that this is not NAFTA agreement. In NAFTA, we did make advances on labor and environment, but we did not include it in the core agreement. It was not effective. We had no enforcement. We had these sidebar agreements. We learned that was not the way to do it. Well, this TPA says that in regard to human rights and good governance, in regard to labor and the environment, that they are in the principal negotiating objectives and there will be trade sanctions in regard to violations—if there are violations. We hope there are not. We hope they will make the progress. But we have effective ways of dealing with our principal negotiating objectives that include the good governance issues that I think are critically important.

I started my remarks by saying thank you to Senator WYDEN. I thank him very much because he has really done an incredible job in where we are today. He points out that we are not there yet. I agree. We need an open amendment process here. We need to take up more amendments on the floor of the Senate. I say that as one of those Members who have not been bashful about trying to change the rules of the Senate.

I am told by people who have been here longer than I that the rules of the Senate work. You just have to be a little patient. OK. We will be a little patient. But let's figure out a way that we can have more votes on the floor of the Senate in regard to this bill.

We do not get a chance to take up trade bills very often. I have an amendment that I want to see acted upon. I do not think it is controversial, but it is extremely important. What that amendment would do is require the President, before commencing negotiations with potential trading partners, to take into account whether that potential trading partner has engaged in a consistent pattern of gross violations of internationally recognized human rights. This amendment appropriately puts gross violations of human rights on par with prenegotiating requirements of other principal negotiating objectives. So before we start picking countries with which we are going to do trade agreements, let's make sure they are not gross violators of human rights.

Now, so everybody does not get nervous—because TPP is so far advanced—it would not be possible to have the free negotiating objectives certified by the President on TPP. I understand that. There is a blanket exemption in TPA in that regard, which applies also to the amendment I am offering. But I would hope our colleagues would agree that moving forward we would want the President to take that into consideration, to make sure we have a game plan, if we are dealing with a country that has violated human rights, as to how we are going correct that activity through the opening of trade.

Trade with our country is a benefit. It should be with countries that share our basic values. Lowering trade barriers should come with further commitments to our basic values, and that is what my amendment would do. I would urge my colleagues, at the appropriate time, to make sure this amendment is considered. I would ask their support on this amendment.

Let's continue to work through the process. Let's continue to improve the bill. Hopefully, we can reach a point where we can send to the President the appropriate legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, no more than 2 minutes. Before my colleague leaves the floor, I just want it understood in this body that Senator CARDIN has championed for decades the cause of labor rights, environmental rights, human rights. I so appreciate his leadership in this area.

For the first time, as a result of Senator CARDIN's work, human rights will be a principle negotiating objective because Senator CARDIN has been spot-on in saying trade must be about human rights. So that is No. 1.

Point No. 2, my colleague was absolutely right in saying how important it is that we have more votes here. That is why I am going to be spending all day into the night trying to bring that about. I want my colleague to know I will also be very interested in working with him on this additional amendment he has to further build on what we have in the bill. I thank my colleagues for their patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I ask unanimous consent to address the Senate as in morning business, and when the Senator from South Carolina arrives, to engage in a colloquy with the Senator from South Carolina, Mr. GRAHAM.

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

FOREIGN POLICY AND ISIL

Mr. MCCAIN. Madam President, today, the black flags of ISIL fly over the city of Ramadi, the capital of Iraq's Anbar Province. Anbar was once a symbol of Iraqis working together with brave young Americans in uniform to defeat Al Qaeda. Today, it appears to be a sad reminder of this administration's indecisive air campaign in Iraq and Syria and a broader lack of strategy to achieve its stated objective of degrading and destroying ISIL.

Equally disturbing, reports indicate over 75,000 Iranian-backed Shiite militias are preparing to launch a counteroffensive in the larger Sunni province. Whatever the operational success Shiite militias may have in Anbar would be far exceeded by the strategic damage caused by their violent sectarianism and the fear and suspicion it breeds among Iraqi Sunnis.

Moreover, the prominent role of these militias continues to feed the perception of a Baghdad government unable or unwilling to protect Sunnis, which is devastating to the political reconciliation efforts that must be central to ensuring a united Iraq can rid itself of ISIL. Shiite militias and Iranian meddling will only foster the conditions that gave birth to ISIL in the first place.

Liberating Ramadi and defeating ISIL requires empowering Sunnis who want to rise and fight ISIL themselves, including by integrating them into Iraqi security forces, providing more robust American military assistance. Indeed, the Obama administration and its spokesperson have tried to save face for its failed policies by diminishing the importance of Ramadi to the campaign against ISIL and the future of Iraq. As ISIL forces captured and sacked Ramadi, the Pentagon's news page ran a story with the headline, ''Strategy to Defeat ISIL is Working.'' Secretary of State John Kerry said Ramadi was a mere ''target of opportunity.''

White House Press Secretary Josh Earnest said yesterday we should not ''light our hair on fire every time there is a setback in the campaign against ISIL.'' Meanwhile, Ramadi, Iraq, and the region are on fire. How could anyone—how could anyone say we should not light our hair on fire when news reports clearly indicate there are burning bodies in the streets of Ramadi, that ISIL is going from house to house, seeking out people and executing them. Tens of thousands of people are refugees. What does the President's spokesman say? That we should not light our hair on fire every time there is a setback.

The Secretary of State of the United States of America said Ramadi was a mere ''target of opportunity.'' Have we completely lost—have we completely

lost our sense of any moral caring and concern about thousands and thousands of people who are murdered, who are made refugees, who are dying as we speak—and the President's Press Secretary says we should not light our hair on fire.

What does the President have to say today? The President of the United States today says: Well, it is climate change that we have to worry about. I am worried about climate change.

Do we give a damn about what is happening in the streets of Ramadi and the thousands of refugees and the people—innocent men, women, and children who are dying and being executed and their bodies burned in the streets?

A few weeks ago, as ISIL closed in on Ramadi, the Chairman of the Joint Chiefs of Staff said the city ''is not symbolic in any way'' and is ''not central to the future of Iraq,'' the capital of the Anbar Province, the place where we lost the lives of some 400 brave Americans and some 1,000 in the first battle of Ramadi during the surge.

These are quotes from the media reports: Bodies, some burned, littered the streets as local officials reported the militants carried out mass killing of Iraq security forces and civilians.

Islamic state militants searched door-to-door for policemen and pro-government fighters and threw bodies in the Euphrates River in a bloody purge Monday after capturing the strategic city of Ramadi. . . . Some 500 civilians and soldiers died in the extremist killing spree. . . .

They said [ISIS] militants were going door-to-door with lists of government sympathizers and were breaking into the homes of policeman and pro-government tribesmen.

So the Chairman of the Joint Chiefs of Staff said it is not symbolic in any way. It is not central to the future of Iraq. It was in response to those comments that Debbie Lee sent a letter to General Dempsey. Debbie's son, Marc Alan Lee, was the first Navy SEAL killed in the Iraq war. For his bravery he was awarded the Silver Star and his comrades renamed their base in Ramadi ''Camp Marc Alan Lee.''

''I am shaking and tears are flowing down my cheeks as I watch the news and listen to the insensitive, pain-inflicting comments made by you in regards to the fall of Ramadi'' Debbie wrote General Dempsey.

She continues:

My son and many others gave their future in Ramadi. Ramadi mattered to them. Many military analysts say that as goes Ramadi so goes Iraq.

Debbie Lee is right. Ramadi does matter. It matters to the families of the 187 brave Americans who gave their lives and another 1,150 who were wounded, some of them still residing at Walter Reed hospital, who were wounded fighting to rid Ramadi of Al Qaeda from August 2005 to March 2007.

And it matters to the hundreds of thousands of Iraqis, mostly Sunnis, who call Ramadi home, were forced to flee their homes, and feel their government cannot protect them against ISIL's terror.

Ramadi's fall is a significant defeat, one that should lead our Nation's leaders to reconsider an indecisive policy and a total lack of strategy that has done little to roll back ISIL and has strengthened the malign sectarian influence of Iran.

I wish to go back. Yesterday, as I mentioned, Press Secretary Josh Earnest said: ''Are we going to light our hair on fire every time there is a setback?''

It is one of the more incredible statements I have ever heard a public figure make. Well, General Dempsey's comments are equally as absurd.

The New York Times headline: ''Iraq's Sunni Strategy Collapses in Ramadi Rout.''

The Washington Post: ''Fall of Ramadi reflects failure of Iraq's strategy against ISIS, analysts say.''

Wall Street Journal: ''US Rethinks Strategy to Battle Islamic State After Setback in Ramadi.''

Associated Press: ''Rout in Ramadi calls U.S. strategy into question.''

Bloomberg: ''Islamic State Victory Threatens to Unravel Obama's Iraq Strategy.''

The only problem with that statement is there is no strategy to unravel.

The Daily Beast: ''ISIS Counterpunch Stuns U.S. and Iraq.''

According to the Associated Press: ''The United Nations says it is rushing aid to nearly 25,000 people fleeing for the second time in a month,'' after the Islamic State group seized the key Iraqi city.

The U.N. reported 114,000 people fled Ramadi in April. The U.N. reports it has helped more than 130,000 people over the past alone.

Continuing: ''Bodies, some burned, littered the streets as local officials reported the militants carried out mass killings of Iraq security forces and civilians.''

It goes on and on.

Before I turn to my friend from South Carolina, I just want to point out, my friends, that this did not have to happen. This is the result of a failed, feckless policy that called for, against all reason, the total and complete withdrawal from Iraq after we had won with the enormous expenditure of American blood and treasure, including 187 of them in the battle of Ramadi.

In 2011, Senator LIEBERMAN, GRAHAM, and I argued that the complete pullout from Iraq would ''needlessly put at risk all of the hard-worn gains the United States has achieved there at enormous cost in blood and treasure,'' and potentially be ''a very serious foreign policy and national security mistake for our country.''

We wrote a long article in the Washington Post. In October, 2011, on the day President Obama announced a total withdrawal of troops from Iraq, Senator MCCAIN called the decision ''a strategic victory for our enemies in the Middle East, especially the Iranian regime,'' and warned that ''I fear that all of the gains made possible by these brave Americans in Iraq, at such grave cost, are now at risk.'' That was in 2011.

In December of 2011, Senators MCCAIN and GRAHAM predicted that if Iraq slid back into sectarian violence due to U.S. pullout, ''the consequences will be catastrophic for the Iraqi people and U.S. interests in the Middle East, and a clear victory for Al Qaeda and Iran.''

It goes on and on. Time after time, Senator GRAHAM and I warned exactly what was going to happen in Iraq. It was not necessary to happen. It is because of this President's refusal to leave a force behind.

Now, my friends, before I turn to my friend from South Carolina, what was said at the same time that Senator GRAHAM, Senator Lieberman, and I were warning of this catastrophe? What was said at the same time?

February 2010, Vice President BIDEN:

I am very optimistic about Iraq. I think it's going to be one of the great achievements of this administration. You are going to see a stable government in Iraq that is actually moving toward a representative government.

In December 2011, at a Fort Bragg event marking the end of Iraq war, President Obama said:

But we are leaving behind a sovereign, stable and self-reliant Iraq. This is an extraordinary achievement, nearly 9 years in the making.

In March 2012—this is perhaps my favorite—Tony Blinken, then national security adviser to Vice President BIDEN, stated: ''Iraq today is less violent, more democratic, and more prosperous than at any time in recent history.''

This is November of 2012, and President Obama on the Presidential campaign trail said:

The war in Iraq is over, the war in Afghanistan is winding down, al Qaeda has been decimated, Osama bin Laden is dead. The war in Iraq is over. The war in Afghanistan is winding down. Al Qaeda has been decimated. Osama bin Laden is dead.

So we have made real progress these last 4 years.

In January 2014—I guess this is my favorite—President Obama on ISIS:

The analogy we use around here sometimes, and I think is accurate, is if a jayvee team puts on Lakers uniforms that doesn't make them Kobe Bryant.

He was talking about ISIS:

The analogy we use around here sometimes, and I think is accurate, is if a jayvee team puts on Lakers uniforms that doesn't make them Kobe Bryant.

We are seeing a dark chapter in American history, and it is the getting darker. In response to a slaughter in Ramadi, the answer seems to be: ''Let's not set our hair on fire [over this].'' That was by the President's Press Secretary, and that Ramadi isn't important at all, from the Chairman of the Joint Chiefs of Staff. This is a ''temporary setback.'' This is, according to the Secretary of State, ''a target of opportunity.''

Where is our morality? Where is our decency? Where is our concern about

these thousands of people who are being slaughtered and displaced and their lives destroyed? And we shouldn't set our hair on fire? Outrageous.

I ask my friend, Senator GRAHAM, what we should do next.

Mr. GRAHAM. Well, we should understand that the direct threat of the homeland is growing by the day.

If you want to be indifferent to what is going on in Iraq and say that people are dying all over the world and that is no reason for us to care or get involved, because we can't be everywhere all the time doing everything for everybody, I would suggest to you that ISIL in Syria and Iraq represents a growing threat to our homeland. But you don't have to believe me. Ask our intelligence community.

Over 10,000 foreign fighters have gone into Syria in support of ISIL over the last few months. Their goal is to hit the American homeland, so this JV team is becoming an existential threat—maybe not existential, maybe that is an overstatement—a real threat to the American homeland.

Ramadi is a big victory for them. It is a recruiting tool. They have been able to take on the Iraqi Army. They have been able to stand up to constant air assault by the American forces. They are surviving, and they are thriving.

So if you want to stop the flow of foreign fighters into the arms of ISIL, you have to deliver stinging defeats on the battlefield. Not only are they stronger today in Iraq and Syria than they have been in quite a while, but they are expanding their influence to Libya, Afghanistan, and throughout the region.

All I can tell you is their agenda includes three things—the purification of their religion, which means 3-year-old little girls are executed. Just hear what I said: They executed a 3-year-old little girl. They are enslaving women by the thousands as sex slaves under some twisted version of Islam. What they are doing to people we can't really talk about on the floor, because I think it would be just beyond our ability to comprehend.

The second thing they want to do is to drive out all Western influence and create a caliphate where our allies have no place. The King of Jordan would be deposed. All the friends of the United States and people who live in peace with Israel, they fall. And then their place becomes the most radical Islamic regime known in the history of the world, which will destroy Israel if they can—purify their religion, destroy Israel, and come after us.

President Obama, President Bush made mistakes. He adjusted, you have not. President Bush had a defining moment in his Presidency in 2006. The Iraq war was going very poorly. We had just gotten beaten on the Republican side, and the Iraq war was one of the reasons we lost at the ballot box.

Mr. MCCAIN. Could I interrupt my friend and point out that both of us, because of our perception that we were losing in Iraq, under our Republican President, called for the resignation of the Secretary of Defense and a new strategy. We saw with our own party in the White House that we were failing in Iraq and we could not succeed.

Mr. GRAHAM. Yes, I remember very vividly going to the White House after multiple visits to Iraq and telling President Bush: When your people tell you this is just a few dead-enders, and this is the result of bad reporting by our media, they are wrong.

Mr. MCCAIN. And that stuff happens.

Mr. GRAHAM. Yes, it wasn't that stuff happens; it was that we had it wrong. The strategy we had in place up to 2006 was failing. And the way you know it was failing is that if you go there often enough—I remember the first trip we took in Iraq after Baghdad fell. We were in three SUVs. We went downtown, shopping, and met with some leaders. And every time we went thereafter, it was always a bit worse, to the point that we were inside of a tank, virtually, to go outside the wire.

It was clear to anybody who was paying attention at all in Iraq that it was not working. I remember talking to a sergeant at one of the mess halls and asking: Sergeant, how is it going over here?

And his answer was: Well, not very well. We just drive around getting our ass shot off.

About 1 year later, maybe 2 years later, we went back to the same unit, to different sergeant, after the surge, and I asked another sergeant: How is it going?

Sir, we are kicking their ass.

So the bottom line here is that I think Senator MCCAIN and I have been more right than wrong. But we were willing to tell our own President it wasn't working. He did make mistakes. We all have. It is not about the mistakes you make. It is how you correct your own mistakes.

This President—President Obama, you are at a defining moment in your Presidency. If you do not change your strategy regarding ISIL in Iraq and Syria—because it is one and the same—then this country is very likely to get attacked in another 9/11 fashion. You need to listen to the people in the intelligence community and those who have been in the military in Iraq for a very long time. You are about to make a huge mistake if you don't change your strategy.

I know Americans are war weary, but let me just say this to the American people. The current strategy is going to fail, and one of the consequences of failure is the likelihood of our country or our allies getting hit and hit hard. We don't have enough American forces in Iraq to change the tide of battle. We need American trainers, advisers, Special Forces units, and forward air controllers to make sure the Iraqi Army can win any engagement against ISIL. If we keep the configuration we have today, it is just going to result in more losses over time.

Why do we need thousands of soldiers over there? To protect the millions of us here. And the only reason I would ever ask any soldier to go back overseas for any purpose is if I believed it was important to protect our homeland—and I do. So this strategy that we have in place is a complete failure inside of Syria, particularly, and it is not working inside of Iraq.

We are on borrowed time, Senator MCCAIN.

President Obama, you need to listen to sound military advice. You need to build up the Iraqi military by having more of us on the ground to help them and turn the tide of battle before ISIL gets even stronger and they hit us here. If you don't adjust, the price that we are going to pay as a nation is, I believe, another attack on the homeland.

So at the end of the day, you can blame Bush, you can blame Obama, you can blame me, and you can blame Senator MCCAIN. We are where we are. And I am convinced, if we had left a residual force behind in Iraq, we would not be here today.

President Bush, like every other leader in the world, had certain information—some of which proved to be faulty. He made his fair share of mistakes, but he adjusted.

President Obama had good, sound advice in front of him to leave a residual force behind. He decided to go in a different direction. When they tell you at the White House that the Iraqis didn't want us to stay, that is a complete, absolute fabrication and a rewriting of history. President Obama, Vice President BIDEN got the answer they wanted. They made a campaign promise to end the war in Iraq. They fulfilled that promise, but what they have actually done is lost the war in Iraq. And the war in Iraq and what happens in Syria is directly tied to our own national security.

I hope the President will seize this opportunity to come up with a new strategy that will protect the homeland and reset order. Radical Islam is running wild in the Middle East, and as it runs wild over there, as they rape and murder, plunder and kill and crucify, to think those people will not eventually harm us I think is naive.

The only way we are going to stop ISIL and people like ISIL is to come up with a strategy that will allow us to win. The strategy we have in place today will ensure the existence of ISIL as far as the eye can see, the fracturing of Iraq and Syria, and one day will inevitably lead to an attack on this country. All of this is preventable with a new strategy.

Mr. MCCAIN. Madam President, on behalf of Senator GRAHAM and me and many others, I have a message for Marc Alan Lee's mother—the mother of the first Navy SEAL who was killed in the Iraq war and who, for bravery, was awarded the Silver Star—and 186 other mothers who lost their sons in the battle for Ramadi: I will never stop. I will never stop until we have

avenged their deaths. And we will bring freedom and democracy to Iraq.

But more importantly than that is the threat this radical Islam and the Iranians pose to our Nation and the young men and women who are serving in the military.

As a result of this President's feckless policies, we have put the lives of the men and women who are serving in the military in much greater danger. My highest obligation is to do everything in my power to see that this situation is reversed and that they get the support and the equipment they need and most of all that they get a policy and a strategy that will succeed and defeat ISIS and Iran in their hegemonic ambitions.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SULLIVAN). The Senator from Massachusetts.

Ms. WARREN. Mr. President, I come to the floor to support an amendment I filed with Senators MERKLEY, BALDWIN, and BLUMENTHAL. The amendment is simple. It says Congress shouldn't make it easy to pass any trade deal that weakens our financial rules.

In 2008, we suffered through the worst financial crisis in generations. Millions of families lost their homes. Millions of people lost their jobs. Millions lost their retirement savings. And they watched as the government spent hundreds of billions of their tax dollars to bail out the giant banks.

In response, Congress passed some commonsense financial reforms—the Dodd-Frank act. These new rules cracked down on the cheating and lying in the financial marketplace. They required the big banks to raise more capital so they wouldn't need a bailout if they started to stumble. They gave our regulators new tools to oversee the biggest banks to make sure the rules were followed.

It is no surprise the giant banks don't like the new rules, so for 5 years now they have been on the attack. They have sent their armies of lobbyists and lawyers and their Republican friends in Congress to try to roll back the rules and let the giants of Wall Street run free again. Democrats stood strong to fight off these attacks because we knew that thoughtful rules can help stop the next financial crisis and protect our working families from another great recession. But now, if this fast-track bill passes, Democrats will be handing Republicans a powerful tool they can use to weaken our financial rules.

Here is how it works: This fast-track bill applies to any trade deal presented to Congress in the next 6 years, which is through the end of the Obama Presidency, through the entirety of the next Presidency, and into the Presidency after that. Fast-track prevents anyone in Congress from offering any amendments to a trade bill. And in the Senate, with fast-track, a trade bill can pass with just 51 votes, not the 60 typically required for major bills.

What if we have a Republican President in 2016 or 2020? Look, I hope that will not be the case, but this is a democracy and it is not up to me. Most Republicans—including ones currently running for President—are committed to rolling back financial reforms. With fast-track, they could weaken our financial rules in a trade deal and then ram it through Congress with just 51 votes in the Senate. That is a lot easier than the 60 votes needed for a head-on attack on the financial rules through the normal legislative process.

This is a real risk. We are already deep into negotiations with the European Union over a massive trade agreement. The European negotiators are pressing hard to include financial reforms as part of that trade deal. And lobbyists from the United States have recognized that the European trade deal is a great opportunity to weaken America's financial reforms.

Here is what a member of the European Parliament said just a few months ago: ''I have been approached by lobbyists that have clearly argued they want to have a weak European regulation, much weaker than Dodd-Frank, in order to use that afterwards as a level to undercut or undermine Dodd-Frank in the transatlantic negotiations.''

The big banks on both sides of the Atlantic are pushing for changes, too. A letter from some of the largest financial industry groups in Europe and the United States called for an ''ambitious chapter'' on financial regulations in the European trade deal. I don't think they are looking to make our regulations stronger.

Michael Barr, a former senior Obama official at the Treasury Department and one of the architects of Dodd-Frank, said that the risk to Dodd-Frank in a European trade deal is ''real and meaningful and worth worrying about.'' Barr has noted that European officials are ''barnstorming the U.S., looking for support to include financial services as part of the talks on the proposed Transatlantic Trade and Investment Partnership,'' while the financial industry looks to use talks to ''overturn the pesky—and highly effective—rules being implemented in the U.S. under the Dodd-Frank act.''

The Obama administration, to their credit, has stood strong against such attempts. Treasury Secretary Jack Lew noted in testimony before the House Financial Services Committee that there is ''pressure to lower standards'' on things such as financial regulations in trade deals but that the administration believes that is ''not acceptable.'' Our lead negotiator, U.S. Trade Representative Michael Froman, has said that the United States is ''not open to creating any process designed to reopen, weaken, or undermine implementation'' of Dodd-Frank. And President Obama's administration says our trade deals should not include regulation of financial services. I agree. But this President won't be President in 18 months, and there is nothing this President can do to stop the next President from reversing direction in the European negotiations.

Senator MCCONNELL certainly knows this. That is why he is telling Republicans that ''if we want the next Republican President to have a chance to do trade agreements with the rest of the world, this bill is about that President as well as this one.''

That is why I am proposing this amendment—to make sure no future President can fast-track a trade agreement that weakens our financial regulations. All of my colleagues who believe in holding the big banks accountable and keeping our financial system safe should support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, I have come to the floor a number of times this week to talk about the trade issue, and we are now debating that legislation. I have put up this sign because it is being used by folks on our side of the aisle to talk about the importance of this agreement. It talks about a free and fair trade agreement for a healthy economy. I agree that it needs to be fair, and I agree we need to expand exports.

I support for the first time in 7 years giving the U.S. Government the ability to knock down barriers to our farmers, our workers, and our service providers so we can get a fair shake, but we have to be sure it is fair. And so to my colleagues who have put up this sign and then have opposed the amendment I am about to talk about, I hope they will focus on the fair part as well as the expansion of trade to make sure it does indeed give our farmers and workers a fair shake.

There has been a lot of debate about a particular amendment dealing with currency manipulation. It turns out everybody is against currency manipulation. Maybe that has been an evolution, but everybody is now saying the same thing. The question is whether it should be enforceable.

AMENDMENT NO. 1299

There has been a lot of discussion on the floor here today about the amendment I am offering with Senator STABENOW, and frankly there has been some misinformation out here that I would like to clarify.

First, I want to talk about what these two amendments do. They are very similar, with one exception. The amendment being offered by Senator HATCH and Senator WYDEN does not include enforcement. So they say that this is terrible, that we ought not to have currency manipulation, but the amendment does not have the courage of its convictions. It doesn't say we should do anything about it.

Here is the language. First, both have basically the same definition—targeting protracted and large-scale intervention in the exchange markets by a party to a trade agreement to gain

an unfair advantage. What that basically means is that people lower their currency deliberately by intervening in order to make their exports less expensive to the United States and make our exports to them more expensive. That is not fair. But basically we both identify the same problem and ensure that we are focused on this issue of real currency manipulation.

Second, the amendment I am offering has a specific exemption for what we call macroeconomic policy or specifically domestic monetary policy. In other words, QE1, 2, and 3 would not be affected by our amendment. Yet, even though the Hatch-Cornyn folks are saying they are concerned about that in our amendment, that it might affect domestic policy and monetary policy, they don't have it in their amendment. We have it in ours.

So we not only define currency manipulation so that it is clear that it applies to the kinds of standards the International Monetary Fund currently requires—by the way, to all of the countries that might be signatory to the so-called Trans-Pacific Partnership; all of them—but it also explicitly says in ours that this shall not be construed to restrict the exercise of domestic monetary policy. Therefore, ours is a stronger amendment with regard to that issue.

I also noticed something about their amendment that is interesting. They say theirs has to be consistent with existing obligations of the United States as a member of the IMF and the WTO—the World Trade Organization. Ours says the same thing, except consistent with existing principles and agreements, meaning the other countries have to live up to their agreements also.

I am not quite sure why they don't think other countries should have to live up to their obligations. When you sign up with the IMF and the WTO, you are required not to manipulate your currency. Yet, people do it because there is no enforcement. Their amendment doesn't deal with this issue directly. Ours does—have it be consistent with the obligations these countries have already undertaken.

Finally and, of course, the most important part is the enforceability. There were 60 Senators who in 2013 signed a letter—and the letter went to the President—regarding trade agreements and currency manipulation. The letter said: We need to have enforceable currency manipulation provisions. Sixty Senators. A number of those Senators are still here in the Senate, of course. I think they were genuine in signing that letter. I was one of them, and I certainly was. I am also a signatory to other legislation and have been working on this issue for a long time. Ten years ago, I testified in this Congress about this very issue. But I hope those 60 Senators understand that they said they wanted it to be enforceable. Ours is enforceable. It says it is to be enforceable just like anything else—like intellectual property protection, like what the tariff level ought to be, like labor and environment standards—and it is up to the administration to determine exactly how to proceed with that. That flexibility is in here. It is a trade negotiating objective, and that is appropriate, too, in my view. I am a former U.S. Trade Representative. I used to negotiate these agreements.

The trade negotiation objectives are something we took seriously, but we were given some flexibility. This amendment provides that flexibility.

Finally, there has been a lot of discussion about poison pills. I have joked that this is more like a vitamin pill than a poison pill because this would actually help strengthen this underlying agreement and help us get more support for trade.

The polling data on this, by the way, is overwhelming. Nine out of ten Americans agree that we have to deal with currency manipulation. Why? Because they think it is wrong. It is wrong.

So I have heard it is a poison pill, first because it might hurt us here in the Senate. Just the opposite is true. There are Senators who have told me they would like to support trade promotion authority but they need something on currency manipulation to help them get there.

Is it a poison pill in the House? Well, the vote in the House apparently is tough to come by for TPA. I hope it does end up being a TPA that can pass the Senate and the House. As I said earlier, I think it is the right thing for the workers I represent to expand to markets overseas. But this will help, it won't hurt, because this will give Republicans from my home State of Ohio and around the country the ability to go home and look their workers in the eye and say: You know what, we focused on the fair part here. We focused on ensuring that if you work hard and play by the rules, you will have a chance to compete and a chance to win.

Finally, they say: Well, it is a poison pill because of the White House, because there was a veto threat recommended by the Secretary of the Treasury yesterday. Well, it was a recommendation; it wasn't a Statement of Administration Policy.

I would just reference the President's own statements on this. I know how he feels about it; he is against currency manipulation. In fact, he said that he wanted to be sure to work with colleagues, ''that any trade agreement brought before the Congress is measured not against administration commitments but instead against the rights of Americans to protection from unfair trade practices, including currency manipulation.'' He said he couldn't vote for a trade agreement without enforceable practices on currency manipulation—enforceable so that the rights of Americans could be protected. So I know where the President stood on it, and I hope he will remember that this is about expanding trade. And that is good. We need to do that but at the same time ensure that we have a more level playing field.

People have said it is a poison pill because some of our partners in TPP don't want to have to live up to their obligations under the International Monetary Fund. To my colleagues I would just say that should concern us. The last thing we want to do is to complete an agreement called the Trans-Pacific Partnership and then find out after the fact that all these tariffs we reduced, all these nontariff barriers that got knocked down didn't matter much because these same countries decided they were going to manipulate their currency, which undoes so much of the benefit of a trade agreement.

Paul Volcker, former Fed Chair, has said it well: ''In five minutes, exchange rates can wipe out what it took trade negotiators ten years to accomplish.'' So it should concern us if our trading partners aren't interested.

By the way, two of them—Japan and Malaysia—have engaged in currency manipulation in the past. Are they doing it now? In my view, no. In the IMF view, no. But they have. Japan hasn't done it since 2012, but before that they did it over 300 times.

Why the heck wouldn't we want to have a provision in here that says: I know you are not doing it now, but now that we have come up with this great agreement to expand access for American farmers and American workers and American service providers to Japan, let's be sure you don't do it in the future and undo all those gains. And why would they be worried about that? Why would they not sign up for that kind of commitment? Why wouldn't the United States sign up and all these other countries? Malaysia is the other country that has in the past manipulated its currency. Why wouldn't they sign up for this? If they are refusing to do so, if this is considered a poison pill for that reason, we should be worried about it.

I thank the Presiding Officer for giving me the time to clarify some of the statements made earlier on the floor today. I hope every Member of the Senate will decide, as they talk about the need for more enforcement, that this is exactly what we are talking about and that they will ensure this trade promotion authority representing the views of the Congress includes real enforcement and real help for the workers we represent.

The PRESIDING OFFICER. The Senator from Kentucky.

PATRIOT ACT

Mr. PAUL. Mr. President, there comes a time in the history of nations when fear and complacency allow power to accumulate and liberty and privacy to suffer. That time is now. And I will not let the PATRIOT Act—the most unpatriotic of acts—go unchallenged.

At the very least, we should debate. We should debate whether we are going to relinquish our rights or whether we are going to have a full and able debate

over whether we can live within the Constitution or whether we have to go around the Constitution.

The bulk collection of all Americans' phone records all of the time is a direct violation of the Fourth Amendment. The Second Appeals Court has ruled it is illegal.

The President began this program by Executive order. He should immediately end it through Executive order. For over a year now, he has said the program is illegal. Yet, he does nothing. He says: Well, Congress can get rid of the PATRIOT Act; Congress can get of the bulk collection. Yet, he has the power to do it at his fingertips. He began this illegal program. The court has informed him that the program is illegal. He has every power to stop it. Yet, the President does nothing.

Justice Brandeis wrote that the right to be left alone is the most cherished of rights, most prized among civilized men. The Fourth Amendment incorporates this right to privacy. The Fourth Amendment incorporates this right to be left alone.

When we think about the bulk collection of records, we might ask, well, maybe I am willing to give up my freedom for security. Maybe if I just give up a little freedom, I will be more safe.

Most of the information that comes on whether you are safe comes from people who have secret information you are not allowed to look at. So you have to trust the people—you have to trust those in our intelligence community that they are being honest with you, that when they tell you how important these programs are and that you must give up your freedom, you must give up part of the Fourth Amendment—when they tell you this, you have to trust them.

The problem is, we are having a great deal of difficulty trusting these people. When James Clapper, the head of the intelligence agency, the Director of National Intelligence, was asked point blank, are you collecting the phone records of Americans in bulk, he said no. It turns out that was dishonest. Yet, President Obama still has him in place.

So when they say how important these programs are and how they are keeping us safe from terrorists, we are having to trust someone who lied to a congressional committee. It is a felony to lie to a congressional committee, and nothing has been done about this.

About a year ago, we began having this debate because a whistleblower came forward and said: Here is a warrant for all of the phone records from Verizon.

You say: Well, maybe they have evidence that people at Verizon were doing something wrong.

There is no evidence. This is that they want everyone's phone records.

I don't have a problem with going after terrorists and getting their records, but you should call a judge and you should say the name of the terrorist, and then you get their records as much as you want.

If I am the judge and they ask me for the Tsarnaev boy's records—the Boston Bomber—the Russians had investigated him. He had gone back to Chechnya. Yet, nobody asked for a warrant to look at his stuff. We didn't even know he went back to Chechnya. And then we had the disaster at the Boston Marathon.

I would make the argument that we spend so much time making the haystack bigger and bigger that we can't find the needle because the haystack is too darned big. We keep making it bigger and bigger, and we are taking resources away from the human analysts who should be looking and seeing when Tsarnaev travels outside of our country.

We recently had another terrorist travel from Phoenix to Texas. We had arrested him previously. My guess is there was sufficient cause—probable cause—for a real warrant to look at his activities, and we should. But I don't think we are made any safer by looking at every American's records.

In fact, when this came up, the government said: Well, we have captured 52 terrorists because of this. But then when the President's own privacy commission looked at all 52 of them, there was a debate about whether one had been aided but not found by these records and would have been found by other records.

We have to decide as a country whether we value our Bill of Rights, whether we value our privacy, or whether we are willing to give that up to feel safer, because I am not even sure you really can argue that we are safer, but people will argue that they feel safer. But think about it. Is the standard to be that if you have nothing to hide, you have nothing to fear but that everything should be exposed to the government, that all of your records can be collected?

Some will say these are just boring old business records. Why would you care if they could find out who you called and how long you spoke on the phone? Well, two Stanford students did a study on this. They got an app and they put the app on the phone—voluntarily—of 500 people. These people then made phone calls. All they looked at was how long they spoke—metadata—and whom they spoke to, the phone number to which they were connected. What they found was that without any other information, 85 percent of the time they could tell what their religion was; more than 70 percent of the time they could tell who their doctor was; they could tell what medications they took; they could tell what diseases they had. The government shouldn't have the ability to get that information unless they have suspicion, unless they have probable cause that you committed a crime.

When they looked at this, the appeals court was flabbergasted that the government would make the argument that this was somehow relevant to an investigation—because that is what the standard is. Under the Constitution, the standard is probable cause, which means there is some evidence or suspicion that you have done something illegal. But the standard now is relevance, which means, is it relevant to an investigation? But the court said that even that looser standard of relevance completely destroys any meaning of any words if we are going to say every American's phone record in the whole country is somehow relevant to an investigation.

But it gets worse. They don't even have to prove it. The government says to the court that they think it is relevant, but there is no challenge and there is no debate. It is just taken at face value—or at least it was until this court ruling was appealed. So we now have the second appeals court that said this bulk collection of phone records is illegal.

There are many different programs going on. This is the only one we know about where our government is collecting our records, and the only reason we know about it is not because the government was honest with you—the government was dishonest. The Director of National Intelligence tried to basically lie to the American people and say it didn't exist. So we know about this one, but what other programs are out there?

There is something called Executive Order 12333. There are some who believe this is just the tip of the iceberg, the bulk collection; that there is an enormous amount of data being collected on people through this other program.

One question is, if there is no Fourth Amendment protection to your records, are they collecting your credit card bills? I don't know the truth of that. I would sure like to know. I don't know whether to trust their answer if I asked them, if they will be honest with us and say are they collecting our credit card records.

People might say: Well, your credit card records are just boring old business records. Why would you care?

But think about it. If the government has your Visa bill, they can tell whether you drink, whether you smoke, what restaurants you go to, what your reading material is, what magazines or books you read, what doctors you see, what medicines you buy? Do you buy medicine? Do you gamble? All of these things can be determined.

Not only can they determine stuff directly from your phone bill and directly from your Visa bill, they now have the ability to merge all of this information. Apparently, they have the ability to collect your contact lists, and sometimes they are collecting this in a way that is somewhat nefarious.

We are supposed to be spying on foreigners—foreigners who might attack us. I am all for that. But what happens is there is a lot of data that goes in and out of the country. In fact, sometimes an e-mail from New Jersey to Colorado

might go through a server in Brazil. Once it gets to a server in Brazil, they can not only look at your metadata—how long and whom you talked to—the content is now available. It all gets scooped up. It is all being analyzed. They are doing the social network of who your friends are. Some have said this could potentially have a chilling effect on the First Amendment.

There was a time in our country not too long ago, in the lifetime of most of us, when if you called the NAACP, you might not want your neighbors to know or if you were a member of the NAACP, you might not want your neighbors to know or if you were calling the ACLU or a member of the ACLU, you might not want your neighbors to know. It can have a chilling effects on your expression of your speech, whom you associate with, and whether you are fearful to have association with people because you are fearful that knowledge might be known by the government.

People say: Well, certainly that would never happen.

During the civil rights era, many of the civil rights leaders were spied upon illegally by the government through illegal wiretaps.

Many Vietnam war protesters were also spied upon illegally by the government. The reason we have the Fourth Amendment is to have checks and balances. Everything that is great about our country is checks and balances.

Let's say we have a rapist or a murderer in Washington, DC, today. Let's say it is 3:00 in the morning and the police come to the house. They think the rapist or murderer is inside. They do not just break the door down. If there is no commotion, no noise, no imminent danger, they stand outside and get on their cell phone and call a judge. Almost always the judge grants a warrant. Then the police go in.

But why do you want that to happen? Sometimes people come up to me and they say ''I am a policeman'' or ''I work for the FBI.'' Many of my friends are policemen and work for the FBI, and they say ''Don't you trust us?'' It is not about the individual. Laws are not about whether we trust one person or your brother is a policeman and your brother would never do anything wrong. It is not about your brother. It is not about your friend. It is about the potential for there to be a rotten apple, someone who would take that power and abuse that power. We have laws not for most of us. It is for the exception. It is for something out of the ordinary. But it is also to prevent systemic bias from entering into the situation. For example, there was a time in the South when it might have been that a White person from the government might have decided they were going into the home of a Black person just because of racial bias. You get rid of bias by having checks and balances, by always saying you have to ask somebody else for permission.

When we were leading up to the war for our independence in about 1761, I believe, James Otis was arguing before the courts. He was arguing against something called the writs of assistance. A writ of assistance was a type of warrant, but it was a generalized warrant. No one's name was on it; It just said: You are welcome to search anybody's house to make sure they are paying the stamp tax.

Do you wonder why the Colonists hated the stamp tax? It was not just the tax; it was the fact that the government could break the door down, come in, and rifle through their papers. Writs of assistance were something called a general warrant.

This same battle had gone on in common law in England and developed as one of our precious rights that we actually kept from the English tradition.

John Adams wrote about James Otis fighting against these general warrants, and he said it was the spark that led to the American Revolution. That is how important this is.

The Fourth Amendment was a big deal to our Founders. The right to privacy, as Justice Brandeis said, the most cherished of rights, is a big deal. We should not be so fearful that we are willing to relinquish our rights without a spirited debate.

The debate over the PATRIOT Act, which enshrines all of this and got this started, goes on about every 3 years or so. It has a sunset provision. It is set to expire in the next few days. But we are mired in a debate over trade. There is another debate over the highway bill. And the word is that we will not get any time to actually debate whether we are going to abridge the Fourth Amendment, whether we are going to accept something that one of the highest courts in our land has said is illegal. Are we going to accept that without any debate?

I, for one, say there needs to be a thorough debate, a thorough and complete debate about whether we should allow our government to collect all of our phone records all of the time.

In England, about the time of James Otis, there was another man by the name of John Wilkes. I learned about this story in reading my colleague Senator LEE's book recently. John Wilkes was a rabble-rouser. He was a dissenter. Some called him a libertine. I do not know about his morals, but I know he was not afraid of the King.

The King was becoming more and more powerful at that time. That is one of the complaints we had as well. So John Wilkes began his own newspaper. It was called the North Briton, and he labeled it with numbers. The one at the time became the North Briton No. 45. It became so famous throughout England that it was also part of our idiom, part of our language in the United States. Everybody knew what 45 was if you mentioned it. But he wrote something about the King. He basically wrote what would be an op-ed in our day. He made the mistake of sort of saying that the King's behavior or the Prime Minister's behavior was equivalent to prostitution. That did not make the King very happy, so the King wrote out a warrant for the arrest of anybody who had to do with the writing of this North Briton No. 45. But the warrant did not have anybody's name on it. It was a generalized warrant.

He said: Arrest anybody.

So they broke down John Wilkes' door. They rifled through and ruined the contents of his house, arrested him, put him in irons, and took him to the Tower of London. They did the same to 49 other people. But John Wilkes was not about to take this lying down, so John Wilkes actually then decided that he would sue the King.

I tried doing the same thing. I tried suing the President, and it has not gone so well. But the thing is that everybody ought to think they have the ability and the equality to sue even their leaders.

So he sued the King, and something remarkable happened. This was in the early the 1760s. When he sued the King, he actually won. I think the award was like 1,000 pounds, which would be a significant sum of money for us in today's terms. It was a big victory. It was part of the discussion going on simultaneously over here with James Otis. It was a big deal.

So often my party does such a great job talking about the Second Amendment and the right to bear arms. I am all for that. But the thing is, I do not think you can adequately protect the Second Amendment unless you protect the Fourth Amendment, the right to privacy. Your house is your castle. The right to not have your castle invaded is so important.

I will give an example. A lot of people think we will be safer if we collect gun records. A few years ago, they collected all the gun records and they had them in Westchester County, near New York City. A newspaper decided they would publish them. They really did not think this through. But you can see the danger of what happens when the government has records and then releases them to everybody.

Imagine a woman who has been abused or beaten by her husband and has left him. She lives in fear of him finding her. Now the registration comes out and says where she lives and that she has a gun or, worse yet, where she lives and that she does not have a gun.

Think about prosecutors and our judges. I know many of them who put bad people away, and many of them have concealed carry. Many of them travel to work. The security meets them in the parking lot. They go to work, but they worry. We have had sherifs and we have had prosecutors killed in Kentucky because the criminals were angry that they were locked up.

We do not want all of our records by the government to be put out there in public for everybody to know where we live and whether we have a gun.

You can see the issue of privacy is not a small issue. It is a big issue. It was incredibly important to our Founding Fathers.

Some have said it is too late to even get this back. There have been articles written in the last few weeks that say that whether or not the PATRIOT Act expires, the government will just keep on doing what they are doing. In fact, there is a provision in the PATRIOT Act that says any investigation already begun before the deadline can go on in perpetuity.

The other thing is that there are people now writing—John Napier Tye, who was the Internet watchdog for this program, wrote that he believes that Executive Order 12333 is really allowing all this bulk collection under what the President says are article II authorities.

Article II gives the President and the executive branch different powers, but these are not unlimited powers. Some think they are. Some say the President has the absolute power when it comes to war. Article II actually comes after article I. In article I, section 8, the President was told he does not get to initiate war. The most basic of powers with regard to war were not actually given to the President; they were given to Congress.

What is sad about this, what is going on now is that Congress has not shown sufficient interest in what the executive branch does on a host of things, whether it be regulation, whether it be the enormous bureaucracy, but really so much power has shifted and gone from Congress and wound up in the executive.

It is the same way with intelligence. We have intelligence committees, but the question is, Are they asking sufficient questions? There are some. Senator WYDEN has been a leader in this. He and I have worked together. He really has been the leader because he has been on the Intelligence Committee. He has more information, really, than the rest of us do, but he at times has been hamstrung because once you know information, if it is told to you in a classified setting, you are not allowed to talk about it. Sometimes it actually makes sense, if you want to speak out, not to actually learn through the official channels but to read on the Internet because if you learn about it through official channels, you cannot say anything about it even if the government is lying about it.

We are talking about an enormous amount of information. We are talking about all of your phone records all of the time.

Recently, there were some complaints by people in the newspaper. They said: Well, the government is really only getting one-third of your records; they are not getting enough of your records. Some want them to get more of your records.

The objective evidence shows, though, that we really have never gotten anyone independently; we have not found any terrorist independently of this. But still some people are so fearful, they are like: How can we get terrorists? We will be overrun with terrorists, and ISIS will be in every drugstore and in every house in America if we do not get rid of the Constitution, if we do not let the Fourth Amendment lapse, and if we do not just let everybody pass out warrants.

That is what we do under the PATRIOT Act. The PATRIOT Act allows the police to write their own warrants. This is one of the fundamental separations we did with the Fourth Amendment. This was probably the most important thing we did, to separate police power from the judiciary, to have a check and a balance so you would never get systemic bias, so you would never get political or religious or racial bias in your judicial system. We separated these powers.

We now let the police write their own warrants. It is a special form of police. It is the FBI, but they are domestic police. The FBI is allowed to write their own warrants. These are called national security letters. They do not have to be signed by a judge. There is no probable cause. If they come into your house, there is no ability for you to complain. In fact, sometimes they are now coming into our houses without us knowing about it. This is called a sneak-and-peek warrant. Like everything else, the government says we will be overrun with terrorists if we do not let the government quietly sneak into our house when we are gone and put in listening devices, search through our papers and read all of our stuff while we are gone.

They do not have to have probable cause necessarily for these. It is a lower standard. But we are letting the FBI write this without a judge reviewing it.

I have a friend who is an FBI agent. I play golf with him. He is like: Don't you trust me? I do trust him. I do not trust everybody.

Madison said that if government was comprised of angels, we would not need restrictions, we would not need laws. Patrick Henry said that the Constitution is about restraining the power of government. It is not about the vast majority of good people who work in government. It is about preventing the bad apple. It is about preventing the one bad person who might get into government and decide to abuse the rights of individuals.

Some say: Well, the NSA has never abused anyone's rights. That may or may not be true. They are giving us the information. We do not get to independently look at the information. They are telling us. It is the same group who says they were not doing any bulk collection of data at all. But even if we presume they are telling us the truth, it is not really the end of the story because the story should be that we do not want to allow the abuse of power to happen.

As the debate unfolded the first time for the PATRIOT Act, something occurred that happens frequently around here. There is not enough time. Hurry up, hurry up, there is not enough time. It is kind of like the debate right now.

Unless we insert ourselves at this moment, I am not sure we will have any debate on the PATRIOT Act. It has been set to expire for 3 years. We have known it was coming, and the question is, Do we not have enough time because we just don't care enough? Are we going to relinquish our rights or constrict our rights to the Bill of Rights, even though we know it is coming up and that we have to do something else that occupies all of our time?

Senator WYDEN and I have a series of amendments. Our amendments would try to reform some of this. Our amendments would say that NSLs, national security letters, cannot just be signed by the police, that they would have to go to a judge.

People argue: Well, how would we catch terrorists? The same way we catch other people who are dangerous, such as murderers and rapists, anybody in our society. In fact, when you look at the criminal process for criminal warrants, warrants are almost never turned down. But just that simple check and balance of having the police call a judge is one of the fundamental aspects of our jurisprudence, and we gave it up so quickly on the heels of 9/11 because of the fear.

The thing is, when the PATRIOT Act came forward, most people didn't even read it. There was a committee bill and this and that and there was a last-minute substitution. It was given hours, and it was simply passed in a spate of fear.

As we look at what happened at that time, I think we now have the ability to look backward and say: Is there another way? When we start with the doctrine that a man's house or a woman's house is their castle, it was a very old notion, maybe even dating back to the times of Magna Carta. Our castle and our papers are a little bit different now, and the Supreme Court has not quite caught up to where we are technologically. They are getting there, but this really needs to be debated and discussed at the Supreme Court level because the thing is we don't keep our papers in our house anymore. In fact, we have gone to such a paperless society that 90 percent of your paper—or if you are under 30 years old, 100 percent of your paper—is held somewhere else.

The question we have to ask is: Do you retain a privacy interest in your records? When the phone company holds your records, do they have an obligation to keep them private? Do you retain a privacy interest? If the government wants the records from the phone company, should they be allowed to write the name Verizon and get all of the records from Verizon? I, frankly, think that if John Smith has his phone service with Verizon and he is a terrorist, the warrant should say John

Smith and go to Verizon, but it is an individualized warrant. I don't think we should have generalized warrants.

There are some who want to replace the bulk collection of records with a different system where the government doesn't hold the records, but the phone companies hold the records. I am also concerned about this for one big reason: The recent court case has now said the PATRIOT Act does not justify the collection of records, that it is actually illegal. I am concerned that since the court is now saying section 215 doesn't allow a bulk collection, that in trying to reform this, what is called the USA FREEDOM Act, we will actually be granting new power to section 215 that the court says is not there. The court is saying that it stands logic on its head to say relevance means nothing, that everybody's records in the whole country could be relevant.

We have even changed, over time, the investigations and whether there is a full-blown investigation at the beginning of an investigation. Who gets to decide or define what an investigation is? The bottom line is that we look at this, and as we move forward, we have to decide whether our fear is going to get the better of us.

Once upon a time, we had a standard in our country that was innocent until proven guilty. We have given up on so much. Now people are talking about a standard that is: If you have nothing to hide, you have nothing to fear. Think about it. Is that the standard we are willing to live under? Think about whether you believe you still have a privacy interest in the records that are held by the credit card companies, your bank or the phone company.

In the PATRIOT Act, they did something to make it easier to collect records and to override your privacy agreement. If you read the nitty-gritty of any of these agreements that you have when you use a search engine or when you are on the Internet, you do voluntarily say that your information will be shared in an anonymous way, but they promise they will not give your name to somebody.

The phone company has the same sort of privacy agreement, but what has happened through the PATRIOT Act is that we have given them liability protection. At first blush, you might say we have too many damn lawsuits. I am kind of that way. I am a physician. We have way too many lawsuits. I am for cutting back on lawsuits. But at the same time, if you give the phone, Internet or credit card company immunity to ignore your privacy agreement, they will.

Instead of the government storing billions and billions of records in Utah, the new system is still going to store billions and billions of records in the phone company, but still the question is: Will we access them in a general way? It says we are going to look at a specific person, but if you look at the way ''person'' is defined, a person could be a corporation. I don't think you should have a warrant that says Verizon and gets all the records for all of their customers.

The other thing that has been going on that they have not been completely honest with, and we may have some data on, is that the government is going inside of the software. They are asking companies such as Facebook or demanding that companies such as Facebook give them access through their source code so the government can get in. Now, to Facebook's credit, they are fighting them, and I think more companies are now standing up and trying to fight against this. But in a nefarious way, the government is going into the code of Facebook and then inserting malware into other people's Facebook and spreading it throughout the Internet.

The government is also looking at communications between two nodes. Let's say you communicate with Google and it is encrypted, but then when Google has a data center that talks to another data center which is nonencrypted, the government just hooks up to a cable and siphons off records. There is a danger that you will have no privacy left at the end of this.

The Fourth Amendment is very specific. The Fourth Amendment says you have to individualize a warrant and put a name on the warrant. You have to say specifically what records you want, you have to say where they are located, and then you have to ask a judge for permission.

The sneak-and-peek warrant I was talking about before is section 213. It is now permanent law. We don't even get a chance to talk about it. We could repeal it, and I will have an amendment to repeal it. This is where the government goes in secretly and says: Well, we need this lower standard because terrorists will get us if we don't. Well, we have now had it on the books for a decade and do you know who they are getting? Drug people—people who are buying, selling or using drugs. That is a domestic problem, which also leads me to something else about the PATRIOT Act that really bothers me.

When we first started talking about the standards of the PATRIOT Act and going from probable cause, which is what the Constitution has, to articulable suspicion, down to relevance, we said: Well, we are going to lower standards because we are going after foreigners. They are not Americans and they are not here. We are going to lower the standard, and really there could be some debate in favor of that.

When we first did it, we said we could not use that information for a domestic crime. I will give an example. I asked one of the intelligence folks at one time to answer a question and was dissatisfied with the response. Let's say the government comes in through a sneak-and-peek warrant. They don't tell you that they are in your house. Guess what. They find out you are not a terrorist, but you have paint in your house which you bought through your office business expense, and you are painting your house, which is a tax violation. It is a domestic crime, but they got into your house through false pretenses. They said you were a terrorist, but they were wrong. However, they found out you were not being perfectly honest with your taxes. They have gotten in through a lower standard.

Ultimately, if we let them collect all of your records and we let a domestic crime be prosecuted by this, we could have the government sifting through your credit card records because they say the Fourth Amendment doesn't protect records, including your phone records—not the content, just all of this data. After they put it together and mesh it, they decide, by looking at your digital footprint, that maybe you are somebody who runs traffic lights.

Now we are taking something that was intended to capture foreigners and we will capture people domestically and prosecute them for domestic crimes, the specific thing they promised us they would never do. So things morph and get bigger and bigger.

We could have a valid debate about whether we have gone too far, but we should at least have a debate. Shouldn't we get together and say: Let's have a debate. Let's devote all week to this.

For a while, I have asked to have a full day and have five or six amendments that Senator WYDEN and I could put forward and have a full-fledged debate over whether the bulk collection of our records is something we should continue to do.

I think if you look at this and say: Where are the American people on this, well, there has been poll after poll. Well over half the people—maybe well over 60 percent of the people—think the government has gone too far. But if you want an example of why the Senate or Congress doesn't represent the people very well or why we are maybe a decade behind, I would bet that 20 percent of the people here would vote to just stop this—to truly just stop it—at the most; whereas, 60 to 70 percent of the public would stop these things.

You are not well represented. What has happened is that I think the Congress is maybe a decade behind the people. I think this is an argument for why we should limit terms. I think it is an argument for why we should have more turnover in office because we get up here and stay too long and get separated from the people. The people don't want the bulk collection of their records, and if we were listening, we would hear that.

The vote in the House, while I don't think the bill is perfect, and I think it may well continue bulk collection, was over 300 votes to end this program and to say we are no longer going to have bulk collection. Yet it looks like the majority in this body says we still need bulk collection. In fact, the biggest complaint from the majority of this body is that we are not collecting

enough records and that we need to collect more records.

Can we have security and liberty at the same time?

I had breakfast with a high-ranking official from our intelligence community maybe 6 months ago, and I asked him: How much information do you get from metadata and how much do you end up getting from a warrant? He said, without question, you get more from a warrant. People talk about whether we can go one hop or two hops. That means if you are suspected of terrorism and you called 100 people—if we look at your records, that is one hop. If we look at the next 100 records, that is a second hop. As you go in, this pyramid gets bigger and bigger until you are talking about tens of thousands of people.

As you get further and further away from the suspect, I see no reason you couldn't keep getting warrants. If they say that warrants are slow and laborious and there is not a judge, put more judges on the court. If they say they need them at 3 in the morning, put the judges on 24-hour alert and you can call them at 3 in the morning. We call judges for a warrant in the middle of the night all across America. I see no reason why you can't have security and the Constitution at the same time.

The President instituted the Privacy and Civil Rights Board. They went through a lot of this, and some of the things they came up with, I think, were truly astounding. The amount of information, I think, is mindboggling—of what is being sucked up in this. There is something called section 702 of FISA, and this has allowed them to collect information on Americans who might have been communicating with a foreigner. You say: Well, that American is probably suspicious. Well, it goes out in ripples and it becomes this enormous amount of—cache of information.

When they looked at some of this recently—the Washington Post looked at this—they found that 9 of 10 intercepted conversations were not the intended target. So I think there was one estimate that in the last year we had 89,000 targets. If you multiply that and say it is only one-tenth of what we actually take, you are now looking at 900,000 records of people who had nothing to do with terrorism. They didn't even really talk to the person. They incidentally talked to a person who talked to the person. It could be the terrorist called Papa John's and you called Papa John's, so now you are in the same phone tree network. That can ripple out in waves. That information should not be collected, it should not be put in a database, and it should not be stored. Ultimately, we are collecting so much information that it is all of your information.

One thing that should concern us about simply going from a system where the government collects all of these records and stores them in Utah to one where the phone company does it—actually some people in the NSA are acquiescing and saying it is not so bad. That concerns me that the NSA is saying ''not so bad.'' It concerns me that we are still going to have bulk collection.

The debate we really need to have is whether, if someone else is holding your records, if you still have any kind of privacy interest in your records. I personally think your phone records are still partially yours, in a way, or that you have a privacy interest in them. This is going to become very important because your records ultimately—there probably will not even be any records in your house, they will be on your phone, and then your phone records are connected to the company. Who owns them? Do you have a right to privacy in those records? I think you can have security and freedom at the same time, but I think if we are not careful, this is going to get away from us.

When they found out that 9 out of 10 intercepts were actually not the intended target, just ancillary information they picked up, they also found that 50 percent contained email addresses that were U.S. citizens. So let's say you collect a million pieces of information and you are just gathering this up and you are intending to go after foreign targets who might be terrorists, but over half of this information, much of it incidentally gained, is actually U.S. citizens. So this is sort of an end run—they call it backdoor searches—but it is sort of an end run that has gone around the Constitution, gone around the Fourth Amendment, to collect information that we have actually said should be illegal to be collected that way, but we are doing it because we have done an end run around.

Also realize you can send an email from Virginia to South Carolina and it might go over a server in Brazil. If your email goes over a foreign server, all of a sudden, boom, everything is done. The Constitution is out the door. They can collect that, even the content. It is never revealed to you; nothing is ever presented to you. It is all done within the executive branch, with no advocate on your side.

There are several programs that came out through this that are being collected. It is not just the bulk collection. There is a program called PRISM that has been out there for a while and there is another one called Upstream. In PRISM, it is a surveillance program that collects Internet communications of foreign nationals from at least nine major Internet companies.

I think this wouldn't have happened if the Internet companies were not given liability protection. I think what would have happened is they would have said we are violating our obligation to our customers and we are going to fight against this. But the PATRIOT Act even made it worse. The PATRIOT Act made it a crime to reveal that you had been served with a warrant. So we have gone way beyond any typical constitutional mechanisms.

In the Upstream Program, a similar thing happened, but this is when the data is collected as it moves across U.S. junctions. The problem is not so much going after foreign communications but going after incidental and collecting incidental communications that involve American citizens.

John Napier Tye was a section chief for Internet freedom in the State Department's Bureau of Democracy. He was going to give a speech—and I think this is very telling. This is reported in the Washington Post. He had written out his speech and he sent it for review. In his speech, he said: If U.S. citizens disagree with congressional and executive determinations about the proper scope of intelligence activities, they have the opportunity to change policy through democratic process.

And we think, Who could object to that? What would his censors say? How could he possibly say we don't have the right through democratic process to change policies? They had him strike ''through intelligence processes'' because I guess they apparently think we don't have the democratic ability to change these things. The sad truth is it may be true because a lot of this is being done by Executive order.

Executive Order No. 12333 has no congressional oversight. In fact, the question was asked recently of one of the Senate leaders, Will you investigate this? Now, there may well be a secret investigation going on, but there was some indication it was really outside of our purview.

I don't think anything the executive branch does should be outside of our purview. The whole idea of having coequal branches was to have checks and balances. One of the biggest problems I find in Washington is that sometimes the opposition party—if we have a Democratic President and a Republican Congress, you will get a little bit of adversity and a little bit of pitting ambition against ambition and check and balance. But the party that is the same party as the President just doesn't tend to push back, probably for partisan reasons. Now, it is not just the other party; it happens when Republicans are in power also. What happens is the political party that is the same power as the President tends to sort of be open to letting things move on, just letting the President accumulate more power. But I think this should be telling that when he said we could change things through democratic action, President Obama's White House Counsel told him that, no, that wasn't true. He was instructed to amend the line and make a general reference to our laws and policies but to leave out intelligence policies as if we don't really get a say in what they do as far as what information they collect on us.

John Napier Tye goes on to warn us. He says: Unlike section 215, Executive Order No. 12333 authorizes collection of the content of communications, not just metadata, even for U.S. citizens.

So quite often we are told—we were told for years—don't worry, they are

not collecting your data; they are just collecting the data of foreigners. It turns out that wasn't true.

Now, the big thing they tell us is, Well, we are not collecting the content, we are just collecting the numbers. But when we read John Napier Tye, he says the Executive order authorizes collection of the content of the communications also, not just metadata, and also for U.S. persons.

So the question is, If we get rid of bulk collection, will the Executive continue to do it anyway?

The other question is, Why doesn't the Executive stop this? It was started by Executive action and can be ended by Executive action at any time. Where is the Executive? How come the press gives him a free pass just to say Congress needs to fix this? Sure, I messed it up, I broke it; I am doing something that the second appeals court said is illegal, and I am going to keep on doing it until Congress does something. Why don't we see any questions from the press? Why don't we see anybody from the media saying, Mr. President, it is illegal. You started it. You were performing a program that is collecting all of the phone records from all Americans. It has been declared illegal from the second highest court in the land. Why don't you stop? I have not ever heard the question asked of him.

With the Executive order, apparently because this, they say, is article II, and then article II to them means they can do whatever they want without any oversight by Congress, the conclusion by John Napier Tye is that there is nothing to prevent the NSA from collecting and storing all communications. This concerns me.

The President instituted or brought together a group called the Review Group on Intelligence and Communication Technologies. In it, they came forward with some recommendations. Recommendation No. 12 was that all of this data—all of this incidental data that is becoming part of these databases that is collected under these authorities—the Executive order—should be immediately purged unless there is a foreign intelligence component to it. The Review Group further recommended that a U.S. person's incidentally collected data should never be used in a criminal proceeding against that person.

So now we are back to what I was talking about earlier. If you are going to go away from the Constitution, if you are going to say to catch bad guys we can't really have the Constitution, we are going to have to have a bar that is a lot easier to cross that allows us to do kind of what we want, wouldn't you want to exclude American citizens from being convicted or put in jail for a crime under a lower standard? It is kind of like this: The question is, If the government can come in without a valid search warrant, without announcing they are in your house, collect all of your data, would you want them to have hours and hours in your house without any probable cause and then start arresting you for this?

There are rumors we are doing this. There are rumors that intelligence warrants, which are nonconstitutional, which are a lower standard, are being used to get regular criminals. What they do is collect information through data, metadata analysis, all of this, they get enough to be convinced that you are a drug dealer, and then they arrest you by getting a traditional warrant, but they are using information they got illegally to get to you.

Section 213, this whole sneak-and-peak, where they go in without announcing that they have been in your house, 99.5 percent of the people arrested are actually people who committed a domestic crime. They are not terrorists. So we are told you have to have a PATRIOT Act to get terrorists. Yet what we really find is that they are using it in a way that is not honest. They are using a lower standard—a standard less than the Constitution—and they are using that standard then to arrest people for basic domestic crime.

The President's Review Commission in recommendation No. 12 recommended that this incidentally collected data not be used criminally against anybody. They gave their recommendations to the White House. The White House stated that the adoption of these recommendations they requested would require significant changes and indicated it had no plans to make any changes. So the President's own review commission says there is great danger in using a lower, less-than-constitutional standard to collect great amounts of information that can be searched. There is great danger to privacy. There is also great danger to using information collected outside of the Constitution. There is great danger in then using that for domestic prosecution, and the President said he has no intention of any changes.

When I think of this President, it is probably what disappoints me most. There were fleeting times when this President was in the U.S. Senate that he stood up for the Constitution. In fact, there is a quote from the President when he was running for office—there are many quotes—but there was one quote saying that the warrants that are issued by police—national security letters—should be signed by a judge. The very amendment that I will try to get a vote on he seemed to have supported, but now his administration is issuing hundreds of thousands—it starts out with a few, then 47, then a couple hundred, and now it is in the thousands. Any time you give power to government, they love it and they will accumulate more. Any time you give power to government and expect them to live within the confines of the power, they will not live within the confines of power unless you watch them like a hawk. You have to watch them. You have to have oversight.

We are at a point now where we have enormous bulk collection, enormous collection of American citizens' data; one program we know almost nothing about. Yet it goes on with no debate. The Executive order from 1981 has been transformed into a monster with tentacles that reach into every home in our country. The collection of records that is going on is beyond your imagination, and we need to know about it. There needs to be a public debate. It has become even more pressing that we have this public debate because the problem is that we have the President and we have the Congress and we have the intelligence community not being honest with us. So the fact that the Director of National Intelligence would come to Congress and lie and say they are not collecting this information, and then when they do admit to it say: Oh, by the way, it is working really well. We are capturing all kinds of terrorists—but they hold all the information, and we rely on them to be honest and to present truthful information to us. This is a big problem.

Currently, the courts haven't brought their rulings up to date. The debate has been going on for a long time. In 1928 there was the Olmstead case. The Olmstead case went against those of us who believe in privacy. I believe that case still lingers on, even though it has been reversed.

In the Olmstead case, Ray Olmstead was a bootlegger, and the government decided to eavesdrop on his conversations, but they didn't have a warrant. They could have gotten a warrant. Who knows why they didn't get the warrant, but they didn't get a warrant. But the Court ended up ruling that phone conversations were not protected by the Fourth Amendment. This was a sad day in our history when this happened in 1928.

The dissent in that case was Justice Brandeis. As so often occurs in our history, sometimes the dissent becomes the majority opinion and becomes profound because it was there at the time.

Harlan's opinion, the dissent in Plessy v. Ferguson, is what everybody refers to. Nobody refers to the majority in saying that separate is equal. They were wrong—the same as in the Olmstead case. People remember Justice Brandeis. It is probably one of the most famous quotes in jurisprudence: ''The right to be let alone is the most cherished of rights.'' It is ''the [right] most valued among civilized men.''

We have this debate still sometimes, though, because some conservatives say: There is no right to privacy. I don't see it in the Constitution. And conservatives who argue that there is no right to privacy aren't remembering the 9th and 10th Amendments very well, particularly the 9th Amendment.

The Ninth Amendment says that all the rights aren't listed, but those that aren't listed are not to be disparaged. Even our Founding Fathers worried about this. Our Founding Fathers came forward and they at first thought we would just do the Constitution without the Bill of Rights. Some of them worried. They said: If we do the Bill of

Rights, people will think that is all we have. If we list ten different amendments, they will think that is all of our rights. So they finally convinced everybody to go along with it by saying: We will put in the 9th and 10th amendment, with the 10th Amendment limiting the powers, saying only the powers enumerated are given to the Federal Government and everything else is left to the States and the people, respectively. But the Ninth Amendment, which is in many ways sort of the stepchild of our amendments, hasn't been adequately, I think, adhered to or recognized. It says that those rights not listed are not to be disparaged.

Sometimes we have this discussion because some people say it has to be enumerated. I agree completely if we are talking that the powers given to government should be enumerated. They are few—few and limited, the powers given to the government. But it is the opposite with your rights. Your rights are many and infinite. Your rights are unenumerated, and you do have a right to privacy. So while the word ''privacy'' is not in the Constitution, in the Fourth Amendment, though, they do talk a lot about your privacy. It is about your home, that your home is your castle.

The exact words of the Fourth Amendment are:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons and things to be seized.

The reason why we should worry about whether a warrant is individualized is we have had some tragic times in our history. During World War II we didn't individualize the arrests of Japanese Americans. We didn't say: That is so-and-so who lives in California, and we think they are communicating with Japan and telling our secrets. We indiscriminately rounded up all of the Japanese and incarcerated them.

There have been times in our history when we haven't acted in an individualized manner. It happened throughout the South in the old Jim Crow South. We told people that we were going to relegate them to a certain status based on a general category.

So when we talk about individualizing warrants, we are talking about trying to prevent bias from occurring. Now, bias can occur for a lot of different reasons. I tell people that you can be a minority because of the color of your skin or the shade of your ideology. You can be a minority because of your religion. You can be a minority because you are home-schooled. But the thing is, if you are a minority, if you are a dissenter, if you dissent from the majority, you need to be very, very aware of your constitutional rights. Be very, very aware of the Bill of Rights.

The Bill of Rights isn't so much for the prom queen. The Bill of Rights isn't so much for the high school quarterback. Many people in life always seem to be treated fairly. The Bill of Rights is for those who are less fortunate, for those who might be a minority of thought, deed or race. We have to be concerned about the individualization of our policies or we run the risk and the danger of people being treated in categories.

Right now we are treating every American in one category. There is a general veil of suspicion that is placed on every American now. Every American is somehow said to be under suspicion, because we are collecting the records of every American.

We talk about metadata and whether or how much it means or what the government thinks it can determine from metadata. There are some people who say: Don't worry. It is just your phone logs. It is no big deal. It is just boring old business records. We should be a little bit concerned by the words of one former intelligence officer who said, that ''we kill people based on metadata.'' He wasn't referring to Americans. He was talking about terrorists. But we should be concerned that they are so confident of metadata that they would kill someone.

Instead of our believing that metadata is no big deal and it just should be public information and anybody can have it, realize that your government is so certain of metadata that they would kill an individual over it. That seems to me to make the point that metadata is incredibly important, if we would make a decision to kill someone based on their metadata.

The Electronic Frontier Foundation has done a lot of work for privacy and deserves a lot of credit. Mark Jaycox writes in an issue from last year that ''it is likely that the NSA conducts much more of its spying power under the President's claimed 'inherent' powers and only governed by a document originally approved by Executive order.''

So while we are superficially having a debate over the bulk collection of records that some claim are authorized under the PATRIOT Act, section 215, there is a whole other section that some privacy advocates are worried about that is even bigger.

I had a meeting recently with one of the founders of one of the huge social communication companies, and he told me that he thinks we are missing some of the debate here, because he says everybody is talking about bulk collection of your phone records. He is convinced that there is ever so much more being collected through backdoor channels. These backdoor channels can occur in two ways. They can occur one way by going and looking at foreigners' information and then coming through the backdoor back into our country and looking at Americans' information. That American's information has tentacles and spreads and it becomes this enormous grouping of incidental information. In fact, some have said 9 out of 10 pieces of data pulled in aren't about terrorists; they are just incidental stuff.

What the President's review commission says is we should delete that once we find it is not relevant to an investigation. The amazing thing to me is that even people who support the PATRIOT Act—and I don't; I think the PATRIOT Act lowers the constitutional standards and risks all freedom and our liberty. But even for those who think the PATRIOT Act is fine, they said that the PATRIOT Act never was intended to do this.

So if you want to ask yourself is the government overstepping, even the authors of the PATRIOT Act are now telling us that the overstepping is to such a degree that they think the PATRIOT Act doesn't justify it.

In fact, that is really what the court ruled recently. I had hoped the court would rule that the bulk collection—the grabbing up of all your records—was unconstitutional, but they actually simply ruled that the PATRIOT Act does not sanction it. The PATRIOT Act does not give authority to the government to do this. It is a pretty amazing sort of set of circumstances—that the government has taken something that was intended in one way, completely transformed it, and then when they are rebuked by the court, they are not chastened at all.

I wonder why no one has had the guts or the wherewithal to ask the President why he doesn't stop this now. The President could today listen to this speech on the floor of the Senate, and he could change his mind. He could, this afternoon, with his pen—he says he has his pen and his cell phone—he can immediately stop the bulk collection of data. In fact, all of the alternatives he could continue and he could probably do now. He could also say he is going to collect the data with a warrant. He has all of that power.

Someone should ask the President: Mr. President, why do you keep doing something the court has said is illegal? Why do you continue doing this, and why won't you stop? And how could we possibly think that it is a responsible answer to say: Oh, I will stop when they make me. His own privacy commission says that what he is doing is illegal and should stop.

One of the things that people are worried about is that the government is forcing its way into the code source of different Facebook, Google, and different Internet companies. There are a couple of things that are occurring because of this. If you live in Europe, if you are Angela Merkel or if you are anybody in Europe, you might not want American stuff anymore.

There are already rumors in discussion that billions of dollars—there has been some estimating of over $100 billion—have been lost to where we have been a dynamic leader in software, in hardware, in the Internet. People don't want our stuff because they don't trust us anymore.

One of the reasons they don't trust us is this. We have a group called the Tailored Access Operations that targets system administrators and installs malware while masquerading as Facebook servers. That is a little scary—that if you go on Facebook, somehow malware is getting into your computer and then searching and allowing them to know everything you are doing on your computer. If you have a warrant, to my mind you can do a host of these things, but do it to someone you have suspicion of.

I think we have made the haystack so big that no one is ever getting through the haystack to find the needle. What we really need to do is isolate the haystack into a group of suspicious people and spend enormous resources looking at suspicious people—people for whom we have probable cause. If you think of almost every instance—I mean, go back to 9/11. You will have people come forward with a ridiculous assumption that if we had the PATRIOT Act, we wouldn't have had 9/11. We would have caught those two terrorists in San Diego. And I am like, you mean the two terrorists that were living with a confidential informant for a year?

We knew who these people were. These people were talking to each other. It wasn't a lack of gathering information. All of these incidentals and all of this grabbing up of bulk records isn't what we needed. We needed the CIA to call the FBI. We needed further that FBI call Washington and for somebody to listen to them.

The 20th hijacker, a guy named Moussaoui, was captured a month in advance. We got him in Minnesota. We got his computer. He was captured because people said—he was from a foreign country, and he was attempting to learn to take off planes but not land them. The FBI agent there ought to be given a Medal of Honor. Instead of giving the Medal of Honor to the head of the FBI, we should have fired the head of the FBI and this FBI agent should have been made the head of the FBI. He wrote 70 letters to his superiors. He caught the 20th hijacker. He should be a well-known name to every American and a hero. He caught the 20th hijacker. He saved lives. But his superior got 70 letters and did squat. I have no idea what happened to his superior, but nobody was fired for 9/11. Instead of firing the people who did not do a good job, we gave them medals. The guy who did a good job, I don't know what happened to him.

(Mr. SCOTT assumed the Chair.)

What we did is we decided we would just collect everybody's information, that we would sort of scrap the Bill of Rights.

I have met a lot of our wounded soldiers. I have met young men who have lost two, three arms, two, three limbs, sometimes four limbs. I have met people who are paralyzed. And to a person, when I ask them ''What were you fighting for?'' they tell me ''The Constitution.'' They tell me ''Our way of life'' or ''Our Bill of Rights.'' Don't you think they would be disappointed to find out that they went over there and they risked life and limb and gave up part of their bodies and they came home, and while they were gone we gutted the Bill of Rights?

Not only did we get it—we can have a difference of opinion on this, but not only did we gut it, we don't have time to debate it. We just willy-nilly say: That is fine. We are not even going to have time to debate it. We have known for 3 years that this debate was coming up. Yet, we squashed a bunch of bills in the last week, and we have no time for debate, no time for amendments, no time to discuss whether we are willing to trade our liberty for security.

Franklin said that those who trade their liberty for security may wind up with neither.

This is a very important debate that we need to have in the public, in the open. We worry about—or some of us worry that just in discussion of bulk records, we may not get to other programs the government just simply will not tell us about. A lot of them are written about, though.

In another episode of the Electronic Frontier Foundation's newsletter, they talk about a program called Muscular. Muscular is a program that is siphoning off the data between different data centers. Yahoo and Google sometimes have—at least did have communication between them that was not encrypted. Your information was encrypted going to the data center, but then between data centers, it was not encrypted, and the government is simply siphoning all this off through Executive order. I do not whether it is foreign. I do not know whether there is incidental American. I do not know what is being collected. We have no oversight, no ability to vote on whether we continue this program or discontinue this program. The companies are sometimes not notified of the warrants or if they are notified of the warrants are told they cannot talk about them; they are gagged. This is the kind of stuff we need to have in the open.

Some of the information people are talking about that the NSA collects on Americans is contacts from your address book, buddy lists, calling records, phone records, emails, and then they put it all into a data—I think the program is called SNAC. They put it all into this data program, and they develop a network of who you are and who your friends are through all of the interconnection of all of your contacts and friends.

If you ask them ''Is any of this protected by the Fourth Amendment,'' the answer you will get is ''The Fourth Amendment does not protect third-party records.'' So, really, we are going to have this go to the Supreme Court.

I said earlier that in the Olmstead case in 1928, Justice Brandeis was in the dissent. The vote was 6 to 3, I believe. The Court ruled that phone conversations have no protection. So we started out with a bad history. The phone was just coming around and becoming commonplace. The Supreme Court said: Your conversations do not have any protection.

This went on for 40-some-odd years until we hit the late 1960s—I think 1968—and the Katz case. Then they say there is an expectation of privacy. So that was a big blow for those of us who believe in privacy, that we finally decided your phone conversations are private and that you have an expectation of privacy and that it should take a warrant with your name on it, individualized, with probable cause.

But we go another dozen years, 10, 12 years, and we get another court case called Maryland v. Smith. Here, though, the Court ruled that your conversation are protected from the government, that the government has to have a valid warrant, but they end up saying that your records don't and that the government is allowed to eavesdrop and pick up and accumulate records about your phone calls without a warrant. I think that was a big mistake.

The case in Maryland v. Smith, though, is one sort of petty criminal and a few records over a few-day period. The question that I would like to see before the Supreme Court would be, is that equivalent to all Americans' phone records all the time? There was at least some kind of investigation going on of this person. They did not do it the right way. I think they should have gotten a warrant.

But in this case, what the government is arguing is that every one of you is somehow relevant to an investigation for terrorism. That is absurd.

Finally, we get to the appellate court last week, and the appellate court says that. They say that, frankly, it is absurd to say that everybody in America is relevant to an investigation. Not only is it absurd, not only is it trifling with your privacy and your right to be left alone, but it takes our eye off the prize.

Why do you think it is that there are not enough human analysts to know that Tsarnaev, the Boston Bomber, was plotting to bomb the Boston Marathon? Why did we not know he got on a plane to go to Chechnya? One of the things that we were told at least in the newspaper was that he had an alternate spelling of his name. So we have been 15 years and we cannot figure out that sometimes these names are spelled a little differently and we did not know he flew back and was radicalized in another country.

I am for spending more money and more time on analysts to investigate and look at the data connected to people of suspicion. But I do not want to spend a penny on collecting all of the information from all of the innocent Americans and giving up who we are in the process. We have to fight against terrorism. We have to protect ourselves. But if we give up who we are in the process, has it been worth it? Are

you really willing to give up your liberty for security? What if the security you are getting is not even real? They said the 52 people who were caught through the bulk collection program—the President's own privacy group investigated and said not one person was captured. There is a possibility of one, but they already had information on him from some other source.

Under the Executive order, we are still not talking about the PATRIOT Act, we are talking about something that nobody knows much about at all. No common Member has been, to my knowledge, informed of what is going on in this program; none of those not on the Intelligence Committee.

But they have something with this information called the special procedures governing communications metadata analysis. This is allowing the NSA to use your metadata—phone records, et cetera, who you call, how long you speak—under the PATRIOT Act and section 702 to create social networks of Americans. So not only are we collecting your data because the government says—and realize this; many of your elected officials are saying this: that you have no right to privacy and the Constitution does not protect your records. They are collecting all of your records, some of it incidental, but they are creating these enormous databanks, but then they are connecting metadata to other metadata to create social networks of who you are.

You should be alarmed. We should be in open rebellion saying: Enough is enough. We are not going to take it anymore. We should be in rebellion saying to our government that the Constitution that protects our freedoms must be obeyed. Where is the outrage?

I tend to think young people get it. Young people—you see them—their lives revolve around their cell phone. They realize that if I want to know about their lives, if I collect the data from their phones—not the content of their phone calls but the data from their phones—that I can know virtually everything about them. Do we want to live in a world where the government knows everything about us? Do we want to live in a world where the government has us under constant surveillance?

They will say: We are not looking at it; we are just keeping it in case we want to look at it. The danger is too great to let the government collect your information.

I think there is a valid question as to whether simply the collecting of your information is something that goes against the Constitution.

One of the other areas where we are seeing collection of data—I mean, it would just boggle your mind. We are not just talking about one program; we are talking about dozens of programs the government has instituted to look at your stuff.

There is another group called EPIC, the Electronic Privacy Information Center. They talk about suspicious activity reports. Those are reports your bank has to file whenever you deal in cash at the bank. There are certain dollar limits. They think, well, gosh, someone is probably a bad person if they are putting $9,500 in cash in the bank. Well, it turns out that a lot of honest, law-abiding people do that.

Not too long ago, there was a Korean husband and wife. They owned a grocery store. They dealt with a lot of cash. They were very successful. Three times a day, they deposited over $9,000, $8 to $10,000. They tried to stay under $10,000 because there were all kinds of extra paperwork if you were over $10,000. So what the government said is, you are structuring your deposits to evade people. You must be guilty of something.

The government then can accuse people of a crime and take their stuff. There is something called civil asset forfeiture. It does not require that you be convicted, does not even require that you be accused of something.

There was a story not too long ago in Philadelphia—Christos Sourovelis. The teenager was selling drugs out of the back of the parents' house. So they caught the kid and they were punishing him, but they decided they would punish the parents, too. They confiscated the parents' house and evicted the family. So the teenager makes a mistake by selling drugs, and what does the government do? They take the parents' house. So you think that is going to help the kid or help anything get better in this situation by taking the house? But here is the rub: The kid did not even have to be convicted of anything. The kid did not own the house; he was just their kid.

If we allow all kinds of data to be out there to catch people and then we are not even going to require that you are convicted of a crime before we take your stuff—you can see the danger of allowing so much data to be collected. But we are currently convicting and taking people's stuff or their money simply based on what they are using it for.

The Washington Post did a series of articles on this. Turns out that most people having their stuff taken are poor, often African American, often Hispanic, but for the most part poor. One guy was here in Washington and had $10,000. He was going to buy equipment, such as a refrigerator or a commercial oven or something, for his restaurant. They just stopped him and took his money. It took him years to get it back. He only got it back because the Institute for Justice defended him in getting it back. But it turns justice on its head because he was basically considered to be guilty until he could prove himself innocent.

Realize, then, that people like this are sometimes being picked up because of something called suspicious activity reports. Suspicious activity reports make your bank into a policeman or policewoman. When you deposit things, they are obligated to report you to the government. Does it sound something like ''1984''? Does it sound like you have informants out there everywhere—see something, say something; that your banker is going to call the government if you put cash into the bank?

The burden should always be on the government to prove you are guilty of something. You should never be convicted and you should never be punished without there first being a trial, without there first being evidence, without there first being a trial with a lawyer, with a verdict.

Some of this has gone into the war on drugs. The war on drugs has a lot of problems. But part of it has been the abuse of our civil liberties. Also, part of the war on drugs is that there has been a disparate racial outcome. What do I mean by that? There have been instances where—if you look at the statistics, three out of four people in prison are Black or Brown and are there for nonviolent drug use. But if you look at the surveys and you ask yourselves: Are White kids using drugs the same as Black kids, it is equal. White kids are 80 percent of the public. How do we get the reverse for 80 percent of the population in jail is Black and Brown? It is a problem. If we can't figure it out, you are going to have to continue to realize why people are unhappy.

If you want to know why there is unhappiness in some of our cities, you should read The New Yorker. About 3 or 4 months ago they did a story about Kalief Browder. Kalief Browder was a 16-year-old Black kid from the Bronx. He lives in a poor situation. His family had no money, and he had been in trouble before.

But he was arrested, and he was sent to Rikers Island—16 years old, arrested, sent to Rikers Island. His bail was $3,000. His family couldn't come up with $3,000. He was kept for 3 years without a trial. At least some of it was in solitary confinement.

He tried to commit suicide. Can you imagine how he must feel? Can you imagine how his parents must feel? Can you imagine how his friends feel, the kids he went to high school with. Do you think they think justice is occurring in our country?

We have to be careful we don't let slip away who we are in the process of all of this fight against terrorism, all of this fight against drugs, because what happens is people take things that are bad. Terrorism is bad, drugs are bad. But we take this fight about something that is bad, we forget about the process of law, we forget about the rule of law, and we forget who we are in the process.

But if you want to know why people are unhappy in some of our big cities, you want to see that unhappiness in the street, it is because some people don't think they are getting justice. I, frankly, agree with them. I think there isn't justice in our country when this occurs.

Originally, we had the Constitution. Then after 9/11 we got the PATRIOT Act. The biggest change between the Constitution, which provided protection for us from people, bad people, for 200 years or more—the biggest difference is we changed the standard on how we would arrest people or how we would give out warrants.

I remember having this debate about 3 years ago when we talked about the PATRIOT Act. I was walking along talking to another Senator, and he was alarmed that the PATRIOT Act would expire at midnight. What would we do?

And I was like: Couldn't we, for just a couple of hours, you know, live under the Constitution?

I mean we did for 200 years, for goodness' sake. We have all kinds of tools. There is almost no judge in the land that is going to turn down a warrant. The FISA warrants, the ones they give for security, 99.9 percent of them are approved.

Couldn't we give out warrants? They said it takes too long. Computers work in the blink of an eye. In the blink of an eye, if John Smith is thought to be a terrorist and he called 100 people, in the blink of an eye, I can look at the 100 on the list and I can say: What is the evidence that some on the list look suspicious or any of them from a foreign country or any of them on another list from somebody calling from a foreign country.

There are ways to look at this where we would simply then get a warrant for the next hop and the next hop and the next hop. There is no reason we can't catch terrorists the same way we catch other bad people in society by using the Constitution.

Initially, the government had to show evidence that you were an agent of a foreign power, but this is no longer true. Now all you have to do is make a broad assertion that the arrest is related to an ongoing terrorism investigation.

The problem in the FISA Court is that when they take you to this court, it is secret. You don't get your own lawyer, and basically the government says to the FISA Court judge: Oh, yes, it is related to an investigation—but I don't believe they are forced to show that it is relating to an investigation. In some ways, I think we have gone too far because what you end up having is you have people who are saying it is related, but the question is, Is there any evidence that there is a relation to it and how could there be a relationship of everybody in America to an investigation?

We also often have given gag orders, and this is one of the big complaints of the Internet companies. They get order after order after order, a national security letter. They get all of these suspicionless warrants, and then they are told they can't talk about it or they will go to jail. There are some people who got gag warrants who were librarians and for a decade or more were not allowed to talk to anybody to say that they had received this warrant.

The American Civil Liberties Union has written that the PATRIOT Act ''violates the Fourth Amendment,'' which says the government cannot conduct a search without obtaining a warrant and showing probable cause to believe that a person has committed or will commit a crime.

The ACLU goes on to say that it ''violates the First Amendment's guarantee of free speech by prohibiting the recipients of search orders from telling others [these are the gag orders] about those orders, even where there is no real need for secrecy.''

These are the gag orders. They also say that it ''violates the First Amendment by effectively authorizing the FBI to launch investigations of American citizens in part for exercising their freedom of speech.'' Now, they went back in and they wrote the rules and said: Oh, you are not supposed to do it if it violates someone's freedom of speech. But the bottom line is that the opening we have given to the intelligence community is so wide that there are, for all practical purposes, no limitations on the gathering of your information.

In the Maryland v. Smith case, we kind of get to the point where we have said that telephone conversations are protected, but we have said trace-and-trap and pen register, where they collect your data by phone calls, is not. The problem is—and this is a problem that needs to be corrected by the courts—at this point they are essentially nonexistent. There are no protections in the court for any kind of warrant that has to be gotten for any kind of metadata.

The FBI need not show probable cause or even reasonable suspicion of criminal activity. It must only certify to a judge, without having to prove it, that such a warrant would be relevant to an ongoing investigation.

Also, typically in the past, when we gave warrants for wiretaps, they were sorted to entities. You kind of had to name the entities. But now we are giving the ability to collect data, pen register, trace-and-trap data on your phone calls nationwide. This is a severe departure from what we had had in the past because typically warrants were given under a judge's jurisdiction, so within a region. But now we have a blanket order that says we can collect any of your phone records, anywhere, anytime, across the whole country. This goes against the history of the way we have had juris prudence.

We talk a lot about phone data but your emails are in there too. Interestingly, your emails, after 6 months, have no protection at all. So any email you have on your computer, after 6 months, has no protection at all.

Up to 6 months, there is a little bit of protection, but the government is allowed to look at—without a probable cause warrant—is able to look at whom you are communicating with and the header on the subject line. The government is also able to look at, through metadata, the Web sites you visit.

You can see how various groups would say that might be an infringement of their First Amendment because let's say the government now knows I go to Electronic Frontier Foundation or I go to EPIC or I go to ACLU. I am concerned with civil liberties. Am I a potential problem to the government? I am concerned and I am a critic of the government. Is it a problem the government now knows what Web sites I go to and that I am concerned with this?

Now, if the government would hear—they would say: No, that is not what we are doing.

But the other part of the question is maybe not yet, maybe not now, but you can also squelch and severely restrict First Amendment practices if just simply the fear of the government looking at it might change my behavior. There is all the evidence, there have been surveys, saying that 20, 25 percent of people doing things online are changing their behavior because they are afraid of the government.

The government argues that the list of Web sites and Web site addresses is simply transactional data, but I think there is much more you can garner from this data.

The PATRIOT Act that is due to expire is just three sections. Interestingly, the complaints that I have are a lot over section 215, which the government claims is their justification for collecting all of your phone records. Now, the courts have said otherwise. The appeals court said last week that the business records do not give them the authority to collect your records. In fact, the courts have been very specific that it is illegal.

The President is currently ignoring the court, and the President continues to collect your phone data, all of your phone data, all of the time, as much as they can get. They have not changed any of their behavior, that I know of, since it was declared to be illegal.

Some of the changes—I would repeal the whole thing. I would repeal the whole PATRIOT Act. But some of the changes that I would favor, if we were allowed to change it, if we could get a consensus in this body that would mirror the consensus that I think is in America—once you get outside the beltway of Washington and you go back into America and you ask people are they for this, the vast majority of people think the government shouldn't collect all of their phone records all of the time.

But there are some changes we could make. I think the first thing we ought to do is not replace this system but basically say we are not going to collect data in bulk, that we are not going to collect your phone records, your credit card information, your emails, and where you go on the Web. We are not going to collect that in bulk.

I think we could change the PATRIOT Act to say we are only going to

collect data that has to do with someone who is suspicious, that we have presented some suspicion to a judge, and that the judge said: This is probable cause.

The standard is not that hard. It is hard for me to imagine, in fact, a judge saying no. Judges always say yes. If at 3 in the morning there is a murder somewhere inside a house in DC, what do you think the odds are that when the police call for the warrant that the judge will say no? Odds are most of us want the judge to give permission. But it is the checks and balances that we want so we don't have police who operate on bias or bigotry or religious discrimination. We want the people to be bound by the rule of law.

It is kind of interesting, because you will hear Republicans sometimes give lip service to the rule of law. But in giving lip service to the rule of law, what happens is they seem to forget the whole idea of privacy. They are for it in economic transactions but not so much with regard to personal liberty.

The New York Times has written and talked about some of the economic effects of this. In an article by Scott Shane a couple of years ago, he talks about the idea that foreign citizens, many of whom rely on American companies for email Internet services, are concerned about their privacy.

Now you can say you don't care about foreigners, and they don't get the same standard as we get, so you can understand maybe there is going to be a lower standard. But realize, if we are going to say the standard is quite a bit different and that there is no protection for anybody's data on the Internet, realize that standard is going to scare people in other countries away from our stuff. It is going to scare people away from our email companies. It is going to scare people away from our search engines.

I think if you would talk to any of these companies out there—and some of these companies are some of the greatest success stories in our country—if you think of the Internet revolution and you think of how America has really led, America has been the leader. We have created hundreds of thousands of jobs, billions of dollars of profit. In our zealousness to grab up every bit of information and in our zealousness to ignore, basically, the Constitution, we are grabbing up so much stuff we are scaring people to death. There has already been billions of dollars lost to North American companies because of this, because Europeans, Asians, they don't want our stuff anymore. They don't want things with our hardware. They don't want to deal with our services because they are fearful the U.S. Government is looking at all of their transactions.

The government is pretty clueless over this. Recently, one of the members of President Obama's administration came out—in fact, several members—complaining about encryption. They are like: Well, you know, we are going to maybe have some laws to prevent these companies from encrypting things. It is like: Don't you get it? Don't you get why companies—the encryption is a response to government. The encryption is a response to a government that has run amok basically collecting our information, collecting all of our information. So if you are an American Internet company, if you are an American search engine or an American email company, what do you think you are saying? You are saying: The only way I am getting Europeans back, the only way I am getting Asians back is to say I am going to protect them from my government.

Isn't that a sad state of affairs?

People say: Well, how will you get terrorists if everything is encrypted?

Edward Snowden was using an encrypted email server, and the company that was housing him—that was specifically the genre of their business. They had a business that was encrypted because some people want to be private for a lot of different reasons, many of them legitimate—business, legal, personal reasons. But, anyway, when they came to get Edward Snowden's email, they didn't ask just to get his email; they said they wanted the encryption keys for the entire business.

See, this is the problem. You have to realize there are zealots who don't seem too concerned with your privacy rights. Imagine what they are going to do if they say to Apple: We don't want just the encryption for you to let us in one time to see John Smith, who we think is a terrorist; we want you to let us in all of your products. If they force a good company like Apple to do that, who in the world would want anything from Apple anywhere in the world? There is a danger that we will destroy great American companies by forcing this surveillance into their products.

(Mr. TOOMEY assumed the Chair.)

Senator WYDEN has also made a good point. If the government is going to mandate backdoor access to the code source and the government is going to say that Facebook or Google has to let them in a backdoor, that is a window, that is a breach of the wall, it is a breach of protection.

Senator WYDEN and others have made a good point. He said: If you do that, you will be actually weakening these companies to attacks of cyber security because if somebody can get in, somebody else who is smart can get in as well.

So there is a danger to letting the government in.

There are dozens and dozens of these programs. The NSA has something called the Dishfire database. It stores years and years of text messages from around the world. That might be fine except for it ends up trapping people who are also American citizens as well. It ends up tracking and trapping purely domestic texts that are retransmitted outside the country.

They have a program called Tracfin that collects and accumulates gigabytes of credit card purchases. I don't know—for some reason, I am more appalled by the credit card purchases than I am the phone because I think of all the stuff you can buy with your credit card and what it indicates about you.

With phones—you can find out a lot with people's phone records. When the Stanford students looked at phone records, they found that 85 percent of the time they could tell your religion. The vast majority of the time, they could tell your doctors. The vast majority of the time, they could tell what disease you had. The vast majority of the time, the government can then also connect you through social networking and tell an extraordinary amount about you.

With a credit card, it is even more explicit than that. They can tell if you drink, if you smoke, and how much, what magazines you buy, what books you read, what medicines you take. All that is on your credit card. And we are more and more that type of society. We are less and less a society of cash and more and more a society where everything is on paper. That should worry us. It should worry us that the government has access to all of our records all of the time. It should concern us that the government also says, when you ask them—and this is an important point—that your records, when held by a third party, are not protected at all. It is debatable whether that is true. I think it needs to be looked at again by the court, and I think there are those who will, in the court, say your third-party records are. The Maryland decision was 6 to 3.

Justice Marshall felt your third-party records should be protected. He specifically mentioned that there was a potential stifling effect for association, there was a potential stifling effect for speech, and he was quite concerned that the government really should have a warrant to look at your records.

My hope is that someday the Maryland v. Smith case will be relegated to the dustbin of history, into the same dustbin in which we put Olmstead. In Olmstead, they said you couldn't have any protection for your phone records. It went on for 40 years. I think we still live with some of that because we have trained and taught the phone companies not to be great advocates for our privacy, and there doesn't appear to be seen a great deal of fighting on the part of the phone companies in advocating for us. Some of the Internet companies have begun to step up. But I would like to see both phone companies and Internet companies stand up and say: We are not going to do it. We are not going to give you access to us, and you will have to take us all the way to the Supreme Court.

If they did, if there was unified resistance among the consumer and among the companies to say ''We are not going to let you have our data without a fight, and you are going to have to prove suspicion, and that you

are going to have to get a specific warrant,'' I think then we might be able to get back to a more constitutional scenario.

Within the NSA, there has also been evidence of installing filters in the facilities of Internet and telecommunication companies, serving them with court orders, and building backdoors into their software and acquiring keys to break their encryption. If this becomes the norm, you can see how people will flee American products, and people will say: I am not going to use American things. There is an enormous, beyond-imagination economic punishment to our country that is occurring now and going to continue and worsen if we don't wise up and send a signal.

So for those in this body who say: We need to collect more information. We are not getting enough information. Warrants be damned. I don't care what they do. Take all my information, get as much as you want—those people will have to explain why they are destroying an American industry and why people around the world are going to say: We are alarmed at that, and we want some protection. If we are going to use American products, if we are going to use American email, we want to know there is not going to be indiscriminate collection of our information.

Bill Binney was probably or is probably one of the highest ranking whistleblowers from the NSA. The things he has to say should disturb us because he probably knows more about this than any of us will ever know. Bill Binney said that without new leadership—this is in our intelligence agencies—new laws and top-to-bottom reform, the NSA will represent a threat of turnkey totalitarianism. The capability to turn its awesome power—now directed mainly against other countries—will now be turned on the American public.

Originally, all of these intelligence forays were to get foreigners. We lowered the standard, saying: Well, they do not live here. These are potentially terrorists, and so we are going to have a lower standard.

They started out as foreign searches. In fact, the NSA was originally intended to search for foreigners and to search the information of foreigners. And I am not opposed to that. In fact, I was on one of the Sunday morning programs this week, and they asked: Well, are you for eliminating the NSA?

I said: Of course not. I am for the NSA. I want the NSA to do surveillance that will help to protect us from attack.

Not only am I for surveillance, I am for looking as deep as it takes. But I want some suspicion. I want suspicion that this person—that there is some evidence against this John Doe. You don't have to prove they are guilty; you just have to have something that points toward them being suspicious. You then go to the judge, and the judge says: Here is a warrant. And if there is evidence the people he called is suspicious, go back to the judge and get another warrant. Go deeper and deeper. There is no reason why this couldn't be done nearly instantaneously. There is no reason why it couldn't be done 24 hours a day. And there is no reason why we can't have security and the constitution as well.

This battle has not been just about records; it has also been about another key part of the Bill of Rights, which is the right to a trial by jury, the right to due process, the right of habeas corpus. The Fifth and Sixth Amendments I see together as sort of the amendments that are with regard to your person and with regard to whether you are treated justly by your government.

As we became fearful of terrorists, we said: Well, we are just going to capture people and we will just hold them indefinitely. It is one thing to catch someone on a battlefield in a foreign land shooting at us—and I have said repeatedly that people in battle don't get due process, but people outside of battle, particularly American citizens, should. In some of these cases, we are talking about American citizens accused of a crime—perhaps terrorism—who are caught in our country. Yet, we are going to say: Well, they do not really deserve trials. They do not deserve lawyers.

In fact, and I find this really hard to believe, one Senator said recently: Well, when they ask you for a judge, just drone them. Ha-ha.

The same guy said: Well, when they ask you for a lawyer, you just tell them to shut up.

About 10 years ago, Richard Jewell was thought to be the Olympic Bomber. Everybody said he did it. The TV convicted him within minutes. Everybody said he was the Olympic Bomber. He fit the profile: He wore glasses, he was an introvert, he had a backpack, and he seemed very helpful. Somehow, that was the profile. Everybody said he did it. The only problem is, he didn't do it.

So here he was accused of being a terrorist, of exploding something, doing something terrible and killing innocent people. And I think to myself, if he had been a Black man in the South in 1920, what would have happened to him? Or if he had been any American in this century if the people who believe in no jurisprudence were really in charge. We should be afraid of ever letting these people get in charge of our government, because the thing is that Richard Jewell was innocent.

People say: Well, these aren't just American citizens, they are enemy combatants, and we don't give any kind of jurisprudence—no judges or lawyers for these people. They are enemy combatants.

Well, it kind of begs the question, doesn't it? Who gets to decide who is an enemy combatant and who is an American citizen? Are we really so frightened and so easily frightened that we would give up a thousand-year history, the Magna Carta, even before we had juries—even in the Greek and Roman times, we had juries. Are we really willing to give that up and give people a classification that the government assesses them that cannot be challenged, where people don't get a lawyer, they do not get presented to a judge and told why they are being held, and we would hold them forever?

This was the debate over indefinite detention. The response I got during the debate was: Well, yeah, we would keep them. We would send them to Guantanamo Bay.

An American citizen?

Sure, if they are dangerous.

Kind of begs the question, doesn't it? Who gets to decide who is dangerous and who is not?

When this finally made it to the Supreme Court, though, whether you could hold an American citizen, the Supreme Court rejected the administration's claim that those labeled ''enemy combatants'' were not entitled to judicial review. It took years and years to finally have the Supreme Court tell people that the Bill of Rights was still in effect, that if you are an American citizen accused of a crime in our country, no matter how heinous, you do have a right to a trial by jury, you do have a right to a lawyer, you do have the right of habeas corpus, you do have all of the rights of an American citizen. And no one can arbitrarily take those away from you. And if you don't think that is potentially a problem, think of the South in the 1920s. Think of what would have happened if Richard Jewell were a Black man in the 1920s. He might not have lived the day. Think if Richard Jewell had been a Japanese American during World War II, when we decided that the right of habeas corpus didn't apply to you if your parents were from Japan or if your grandparents were from Japan.

There was an experiment I remember, I think in college—a psychology experiment. They put a person in a room, and they said: This person has information, and we are going to shock them just a little bit. Here is the dial. You get to decide.

They wanted to ask how high people would turn up the dial. It was pretty scary—a good amount of people you would imagine are normal, respectable people—how high they would turn the dial to shock somebody or to torture somebody. So we think that wouldn't happen, but it does.

Any time we make an analogy to horrific people in history—to Mussolini or Hitler—people say: You are exaggerating; it is a hyperbole. Maybe it is. Particularly, to accuse anybody of that is a horrific analogy, and I am not doing that.

But what I would say is that if you are not concerned that democracy could produce bad people, I don't think you are really thinking this through too much. And if you are not concerned about procedural protections—procedural protections are how evidence is

gathered, how evidence is taken from your house, what rules the police have to obey.

People don't quite get this. We don't have a mature discussion on this. Any time we try to say that this should stop and that someone could be a bad policeman, the media dumb it down and say that we are saying policemen are bad. No, it is the opposite. Some 98 or 99 percent of the police are good. In fact, in the general public it is pretty close to that.

The thing is that we have the rules in place for the exception to the rule. We have these procedures in place because maybe it isn't tomorrow that we decide that we are going to round up all the Japanese Americans again and put them in internment camps, but maybe next time it is Arab Americans. So we have to be concerned with this because we don't know who the next group is that is unpopular.

The Bill of Rights isn't for the prom queen. The Bill of Rights isn't for the high school quarterback. The Bill of Rights is for the least among us. The Bill of Rights is for minorities. The Bill of Rights is for those who have minority opinions. The Bill of Rights is for those who are oddballs, those who aren't accepted, those who have unconventional thinking.

If we are so frightened that we are going to throw all the rules out and we are just going to say that here is my liberty, take it, and here are my records; I didn't do anything wrong, so I don't mind if you look at all my records; if you say the standard will now be that if I have nothing to hide, I have nothing to fear and look at everything I do, then there will be a time and there will be a danger that, in giving up your freedom, in giving up your privacy, you will find that the world you live in is not the world you intended.

There have been good folks within the National Security Agency who have talked about and have pointed out that we have gone too far. Bill Binney was one of those. He was a high-ranking NSA official who decided that they had gone too far.

There was an interview—it has probably been 1 year or 2 years ago—with Bill Binney that was in ''Frontline.''

One of the first questions was:

What a lot of people in government will say is that you don't understand; we're still at war. Remember we lost 3,000 people in 9/11. This is a very important program.

They talk about the warrantless collection of all records:

It has saved thousands of lives, as Cheney said at one point. There are multiple plots that have been stopped because of this program. You've got to be very careful about what you wish for, because if you do, you might have another attack, and you might have blood on your hands.

Fear.

What is your reaction to this question about the effectiveness of what all this has been?

Binney replied:

First of all, they like to lump it in as one program and say you can't cancel the program.

In fact, Binney was famous because he had been working on a program that did investigate terrorists but protected American information and deleted American information from incidental collection.

So he said:

That's false to begin with. It's multiple programs. The one program that dealt with domestic spying was called Stellar Wind.

Stellar Wind was one that was also created by Executive order and was done without the permission of Congress before the PATRIOT Act.

They had the other foreign ones; you mentioned the names. There were other names that were listed in the PRISM program that was dealing with foreign intelligence. There were a whole bunch of those programs, not just one.

So the point is you stop the intelligence, the domestic intelligence program, period.

So Binney's opinion was—this is the guy who wrote a lot of the original programs. Bill Binney said he would continue gathering information on foreigners. This is a guy who worked for 30 years for the NSA. He is not some dove who doesn't want to do anything about terrorists. Bill Binney worked for 30 years to develop the programs to help us catch terrorists, but he felt it wasn't proper or constitutional to collect Americans' records without a warrant. He said if we get incidental records, destroy them; don't collect them.

He says:

Eliminate them. [The records of Americans are] irrelevant to anything that—

The incidental collection—

is going on. All the terrorists would have been caught by the process that we put in place for ThinThread—

ThinThread was a program they had before they went to the unconstitutional program—

which was looking and focusing in on the groups of individuals that we already had identified and anybody in close proximity to them in the social graph, plus anybody—the other simple rules like anybody that was looking at jihadi advocating sites. . . .

Et cetera.

That would get them all, and you didn't have to do the collection of all this other data that requires all that storage, transport of information to the storage, maintenance of it, interrogation programs, all of that added expense that they are incurring as a part of it over the last 10 years. You wouldn't have any of that. . . .

Frontline then asks:

This problem of haystacks, how big a problem is that? Is that what we've done, is we've created a situation where the haystacks are bigger, and it's almost impossible to find?

This was Frontline's question. It is a question I have been asking, also. If you collect all of Americans' records all of the time, if we collect all of your phone records, can we possibly look at them?

Now, computers are getting better, but still there has to be a human involved. I think we are overwhelmed with data. At one time about a year ago, I remember an article where I think they collected millions and millions of audio hours. They had just been collecting. They were vacuuming up everything. And I think they had only been able to listen to about 25 percent of it.

So the thing is that there is information that we need to get and we should get.

When the Tsarnaev boy—the Boston Bomber—went to Chechnya, we needed to know that. We needed to continue to see if there was evidence that we could take to a judge to continue to investigate him. So we do need surveillance. But what we don't need is indiscriminate surveillance, and we don't need the haystack to get so big that we can never find the terrorist in the stack.

Binney responds:

Well, what it simply means is if you use the traditional argument they say we're trying to find a needle in a haystack, it doesn't help to make the haystack orders of magnitude larger, because it makes it orders of magnitude more difficult to find that needle in the haystack.

Frontline:

And is that what they've done?

Have we made that haystack so large that we are actually having more trouble catching terrorists because we're scooping up and swooping up all of America's data?

Binney:

That's what they've done. And now they're looking at things like game playing and things like people doing that. I mean, this is ridiculous. How relevant is that to anything?

Frontline:

But they say there're computers, and in Utah they're going to be able to take all this stored data, and they're going to be able to go through all of it, and they're going to be able to connect the dots. Connect the dots—that's what everybody wanted them to do after 9/11.

Bill Binney, former senior NSA:

See, that's always been possible. Before 9/11 we were doing that. That was already happening. We already had that program. That wasn't an issue at all. That's why we should have picked this out from the beginning. We should have implemented it, the ThinThread [program that they'd already been working, the] connect-the-dots program on everything in the world, but we didn't. That's why we failed. It wasn't a matter of not having the program; it was a matter of not implementing the program we had.

When 9/11 came, we gave medals to the heads of our intelligence agencies. No one was ever fired. Yet the 20th hijacker was caught a month in advance. Moussaoui was caught in Minnesota for trying to take off in planes but not land them. The FBI agent there wrote 70 letters to his superior trying to get a warrant. It wasn't that we had to dumb down and take away the procedural protections of warrants. The warrant wasn't denied.

They would have a much stronger argument if they could say: We tried to catch the terrorists, but the judges kept saying no to warrants.

It is absolutely not true. They didn't ask the judge for warrants. So the 70 requests in Washington sat at FBI Headquarters and weren't requested.

We also had another hijacker in Arizona training to take planes off. Once again, the FBI agent there was doing a great job in sending the information to Washington, and but people were not talking to each other. It had nothing to do with saying the Constitution is too strong, and we have to weaken the Constitution or we will never catch terrorists. It had nothing to do with that. But that is precisely the argument we have.

In the aftermath of 9/11, the PATRIOT Act was rushed to the floor—several hundred pages—and nobody read it. It didn't come out of—there was one out of the committee. They didn't use that. They rushed a substitute to the floor, and no one had time to read it. But people voted because they were fearful, and people said there could be another attack and Americans will blame me if I don't vote on this.

But we are now at a stage where we should say: Are we willing to give up our liberty for security?

Can you not have both? Can you not have the Constitution and your security? I think you can.

Several agents other than Bill Binney have also said—several national security officials—that the powers granted the NSA go far beyond the expanded counterterrorism powers granted by Congress under the PATRIOT Act.

The court now agrees with that. Any time someone tries to tell you that metadata is meaningless, don't worry. It is just whom you call. It is just your phone records. It is not a big deal. Realize that we kill people based on metadata. So they must be pretty darned certain that they think they know something based on metadata.

So these are ostensibly or presumably terrorists that are being killed. But what I would say is that if they are killing people based on metadata, I would think you would want your own metadata pretty well protected.

To give you an example of how Representatives are sometimes getting it right, in the House of Representatives, they have seen and responded to the people. THOMAS MASSIE and Representative LOFGREN introduced an amendment to the Defense appropriation bill last year. This amendment would have defunded the warrantless backdoor searches—what they are doing through 702, which is an amendment to the FISA Act. This is where we say we are investigating a foreigner, but the foreigner talks to an American who talks to other Americans, and it ripples out into enormous amounts of incidental information. The information from 702, when you analyze it—9 out of 10 bits of information that are collected—is not about the person we have targeted. They are incidentally collected about other individuals.

But when Representative MASSIE and Representative LOFGREN introduced their amendment to defund the backdoor searches and to tell the CIA and NSA that they cannot mandate that companies give a backdoor entry into their product, the amendment passed 293 to 123.

But just to show you that no good deed goes unpunished and just to show you the arrogance of the body—the vast majority of people do not want their phone records collected without warrant—what did they do when this passed 293 to 123? They stripped it out in secret in conference committee and it was gone. The reason it was gone is like everything else around here. You wonder why your government is completely broken. We lurch from deadline to deadline, and it is on purpose really. We do deadline to deadline because we have to go. It is spring break. We are going to be late for spring break. We have to go, so we have to finish this up before we go.

It is how the budget is done. No one ever votes on whether we are going spend X or Y. They put the whole budget into 2,000 pages. Nobody reads it. It is placed on our desk that day. Nobody has any idea what is in it. None of your concerns about your Government are ever addressed. We just pass, boom, the whole thing and it is out the door. It is the same way with these kinds of things. Because there is a deadline—and this amendment was passed 293 to 123, saying that we shouldn't fund these illegal searches and that we should stop the bulk collection records—it is passed overwhelmingly. Yet, in secret, somehow it is taken back out of the bill and never becomes law.

Now, while I don't agree completely or really at all with the reform that has come forward out of the House, it is at least evident they are listening. They have a bill that would end the bulk collection of records to replace it with, I think, maybe another form of bulk collection, but it still passed overwhelmingly, 330-some-odd votes. But do you know what you hear when it gets over here? They say the Senate is distanced more from the people and not as responsive—absolutely true and sometimes to the detriment of the public. Because the thing is that while it is overwhelmingly popular with the American people that we should not be collecting your phone records without a warrant—without a warrant with your name on it, and the House has recognized this and passed something overwhelmingly to try to fix it—the first thing I hear over here from people is, Well, we are not collecting enough of your phone records. They are disappointed that the government isn't getting—they have access and they claim they can get it, they gain access to everything, but the Government really is not collecting all of it, so people are very disappointed; they want to collect more.

The American people say: Enough is enough. We want our privacy protected. We want the Government to take less of our records. Congress recognizes that—the House of Representatives. Then it comes over to the Senate, and the Senate says: Oh, my goodness. We want to collect more of your records. We do not think we are getting enough into your privacy. We do not think we have completely trashed the Bill of Rights enough; let's try to gain more of your records.

One of the other things the Massie-Lofgren amendment did—that did pass over there—was to get rid of and say that no funds would go to mandate or request that a person alter his product or service to permit electronic surveillance.

This is what is going on. What is pretty nefarious and antithetical to freedom is that our Government is telling companies like Facebook and Google and these other companies—they are forcing them to let the government have access into their products.

Everybody knows this is going on. It is no secret, and it is killing these companies in their worldwide market because non-Americans don't want to use their email. They are afraid the government has forced their way into all their transmissions.

There is currently another bill in the House put in by Representative POCAN, Representative MASSIE, Representative GRAYSON, and Representative MCGOVERN that would repeal the entire thing. It repeals the PATRIOT Act and FISA amendments of 2008, permits the courts to appoint experts, permits the courts to have appeal. It basically tries to make our intelligence courts more like an American court or American jurisprudence.

EPIC is the Electronic Privacy Information Center. They talk some about these national security letters I mentioned earlier. There are now hundreds of thousands of national security letters. These are letters that are warrants. They are not signed by judges. They are actually signed by the police. This goes against the fundamental precept of our jurisprudence. The fundamental aspect was that we divided police from the judiciary. It is supposed to be a check and balance. In case the local policemen had some sort of bias, they always had to call somebody else. It is not perfect, but it is a lot better than not having a check and balance.

When we got to NSL—this comes out of the PATRIOT Act—they start out with a few thousand, and they grow and grow. Now there are hundreds of thousands of them. But realize that the national security letter is similar to what we fought the Revolution over. We fought the Revolution over writs of assistance, which are basically generalized warrants, but they were also written by British soldiers. We were offended that a soldier would come into our house with a self-written permit.

A lot of the reaction and the reason we wrote the Bill of Rights the way we did is that we were concerned with British abuses. We were concerned with the idea of general warrants. So when we wrote the Fourth Amendment, we

said that it had to be specific to an individual. We said you had to name the individual. That is one of the real problems with the bulk collection of records. They are not really based on suspicion of an individual because basically the government is collecting all of your records, indiscriminately.

The government is not even obeying the loose restrictions they put in place. The Constitution says you have to have probable cause. You have to present some evidence to a judge. You don't have to prove that they are guilty, but you have to have enough evidence that the judge says it looks like that person could be guilty of a crime.

So with the PATRIOT Act we lowered that standard and then lowered it again. For collecting information under the PATRIOT Act, all you have to do is say that the information you want is relevant to an investigation. When this got to the court, the court basically said this is absurd. So 2 weeks ago, the court just below the Supreme Court said it is absurd to say that every American's phone record is somehow relevant to a terrorist investigation. They said it takes the meaning of the word ''relevant'' and basically destroys any concept that the word has meaning at all.

The PATRIOT Act went to a much lower standard, not probable cause but just that it might be relevant to an investigation. And even with that lower standard, the court said that is absurd.

How does the President respond? The President responds by doing nothing. The President could end this program tomorrow. Every one of your phone records is being collected without suspicion, without relevance. In contradiction to even what the PATRIOT Act says, your records are being collected. The second highest court in the land has said this is illegal, and the President does nothing. The President said to Congress, Oh, yes; I will do it if Congress will do it.

It is a bit disingenuous. We did not start the program. The authors of the PATRIOT Act had no idea this was going on. The PATRIOT Act, according to the court, does not even justify this.

We are looking at telephone records. We are looking at email records. EPIC, the Electronic Privacy Information Center, has another big complaint about this; that people were put forward and then told that they could not even talk about the fact that they had been given a warrant. They were threatened with 5 years in prison for even mentioning that they had been served a warrant.

This, I think, is an obvious contradiction of the First Amendment. We have legislation that contradicts the Fourth and the First Amendments.

The national security letters in 3 years, from 2003 to 2005—these are the warrants that are written by FBI agents, not written by a judge—there were 143,000 warrants given out in our country to Americans with a warrant written by the police.

The New York Times has talked about this, and Charlie Savage in a report last year reported that the Justice Department had to apologize to a Federal appeals court for providing inaccurate information about a central case challenging the unconstitutionality.

Now, what is truth and what isn't truth. When you go to a court, it is like when your kids fight; there are two sides to everything. One child has one argument, and the other child has the other argument. The truth is listening to both sides and trying to figure out what the truth is. The court is no different. But in these courts, you are only hearing one side and only the government represents their case.

The government says that we want all the phone records because they are relevant. No one stands up on the other side and says: I object. That is one of the reforms Senator WYDEN and I have talked about, having somebody represent the accused, somebody to stand up and say maybe all the phone records in the country are not relevant, maybe they are not relevant to an investigation. It would be absurd to say every American's records would be relevant.

Probably no one in America knows more about this subject than Senator WYDEN, who I see has come to the floor. Senator WYDEN knows more about this because he has been on the Intelligence Committee for several years.

There are two tiers within Congress. There is a great deal of information that I have never been told. Even though I was elected to represent Kentucky, I am not allowed to know a lot of things that happen in the Intelligence Committee. The downside for Senator WYDEN is he is allowed to know more but then he is not allowed to talk about it, which makes it a problem. It is hard to have dissent in our country. If I am not given information, how can I complain about it? And if the Senator from Oregon is given information, he is not allowed to complain about it.

These are the things we struggle with in trying to find truth.

Mr. WYDEN. Will the Senator from Kentucky yield for a question, without losing his right to the floor?

Mr. PAUL. Yes.

Mr. WYDEN. I thank my colleague. It is good to be back on the floor with him once again on this topic.

As we have indicated, this will not be the last time we are back on the floor.

My colleague has made a number of very important points already. I was especially pleased when my colleague brought to light something that is little known; that the Attorney General of the United States is interested in—excuse me—the FBI Director is interested in requiring companies to build weaknesses into their products. In other words, we have had companies interested in encryption, as my colleague mentioned. What happened as a result of that encryption, they had a chance to start getting back the confidence of consumers, both in the United States and worldwide—and then the FBI Director has been interested in, in effect, allowing companies to build a backdoor into their systems. This, once again, kind of defies commonsense because the keys will not just be out there for the good guys. They will also be available to the bad guys.

I am very pleased that my colleague from Kentucky highlighted one particular new development in this debate, and I have sought as a member of the Intelligence Committee for some time to come up with an approach that once again demonstrates that security and liberty are not mutually exclusive. But we are certainly not going to have both, as my colleague touched on in his statement, if the policy of the FBI Director is to require companies to build a backdoor into their products—build weaknesses into their products.

Now, the Senator from Kentucky is very much aware that my staff and a number of Senators are currently working through a number of issues and amendments related to the question of how we can pass trade legislation and get more family wage jobs for our people through exports. A number of us, myself specifically, have been concerned that the majority leader and other supporters of business as usual on bulk collection of all of these phone records would somehow try to take advantage of our current discussions and try to, in effect, sneak through a motion to extend section 215 of the USA PATRIOT Act. As long as the Senator from Kentucky has the floor, that cannot happen. My hope is that once our colleagues have agreed on a path to go forward with job-creating, export-oriented trade legislation, it will be possible to resume our work on that very important bill.

In the meantime, my question for my colleague pertains to an issue that he noted I have been at for some time. As my colleague knows, I have been trying to end the bulk phone record collection program since 2006, and the reason I have is because this bulk phone record collection program is a Federal human relations database.

When the Federal Government knows whom you have called, when you have called, and often where you have called from, which is certainly the case if somebody calls from a land line and someone has a phonebook, the government has a lot of private and intimate information about you. If the government knows that you called a psychiatrist three times, for example, in 36 hours, twice after midnight, the government doesn't have to be listening to that call. The government knows a whole lot about what most Americans would consider to be very private.

This has been an important issue. My colleague from Kentucky has been an invaluable ally on this particular cause since he arrived in the Senate, and I just want to give a little bit more background and then get my colleague's reaction to this question.

I have seen several of my colleagues come to the floor of the Senate and talk about why we ought to keep a bulk phone record collection, and the statement has somehow been that this is absolutely key for strong counterterror. That is a baffling assertion, I say to my colleague from Kentucky, because even the Director of National Intelligence and the Attorney General are saying it is not. So what we have are Members of the Senate saying that bulk collection—some of them—ought to be preserved in order to fight terror, and the Director of National Intelligence and the Attorney General, two individuals who are not exactly soft on terror, saying it is not.

If Senators, and those who might be following this debate, are seeking a more detailed analysis, I hope they will check out the very lengthy report on surveillance that was issued by the President's review group. This group's members have some very impressive national security credentials. These are not people who are soft on fighting terror. One of them was the Senior Counterterror Adviser to both President Clinton and President Bush and another served as Acting Director of the CIA, and this review group—a review group led by individuals with pristine antiterror credentials—said on page 104 of their report that ''the information contributed to terrorist investigations by the use of section 215 [bulk] telephony meta-data was not essential to preventing attacks and could readily have been obtained in a timely manner using [individual] section 215 orders.''

What this distinguished group of experts said supports what the Senator from Kentucky is saying and what I and others have been saying for some time.

The Senator from Kentucky pointed out my service on the Intelligence Committee. I think Senator FEINSTEIN and I are two of the five longest serving members in the committee's history. We didn't find out about bulk collection until it had been underway for quite some time because it was concealed from most members of the Intelligence Committee for several years. But given the fact that we began to see in 2006 and early 2007 what is at stake, this has been a fight that has been going on for 8 years.

An additional reason I appreciate the Senator from Kentucky being here now is that for these 8 years and multiple reauthorizations, it has always been the same pattern. It was almost like the night follows the day. Those who were in favor of dragnet surveillance and those who were in favor of the bulk collection program, in effect, wait until the very last minute and then they say: Oh, my goodness. It is a dangerous world. We have to continue this program just the way it is.

Well, I tell my colleague from Kentucky, and I know he shares my view on this, that there is no question that it is a very dangerous world. Anybody who has served on the Intelligence Committee, as I have for more than 14 years, and goes into those classified meetings on a weekly basis, does not walk out of there without the judgment that it is a very dangerous world. But what doesn't make sense is to be pursuing approaches that don't make us safer and compromise our liberties. That is what doesn't make sense.

Last year, along with my colleagues Senator HEINRICH and Senator Mark Udall, I filed a brief in a case that was before the Court of Appeals for the Second Circuit. It is an important court. It is one of the highest courts in our country.

In the brief, we said we ''have reviewed this surveillance extensively and have seen no evidence that the bulk collection of Americans' phone records has provided any intelligence of value that could not have been gathered through means that caused far less harm to the privacy interests of millions of Americans.''

What we are talking about, in effect, are conventional approaches with respect to court orders and then there are emergency circumstances. So when the government believes it has to act to protect the American people, it can move quickly and then, in effect, come back and settle up later.

The conclusion we reached after reviewing bulk collection very carefully was based on 8 years' worth of work, and of course we recently had this court declare bulk collection to be illegal.

My first question is, Does the Senator from Kentucky agree there is no evidence that dragnet surveillance now makes America any safer?

Mr. PAUL. Mr. President, that is a great question, and I also think it is very difficult to prove these things one way or another sometimes. We are at a great disadvantage because a lot of times they hold all of the information. I think it was nothing short of miraculous that you and others were able to investigate this and show that in reality all of these folks who they allege could have been caught would have been caught through traditional surveillance and through traditional warrants.

I think this is a pretty important point because they want us to live in fear and give up the Fourth Amendment, but it turns out even the practical argument is not an accurate one because it turns out that almost always, if not always, the terrorists seem to be caught through sort of the normal channels of human intelligence, suspicion, and finding out something about them that causes us to investigate them.

I, like the Senator from Oregon, do want to catch terrorists and I also want to keep our freedom at the same time. I think it was a pretty important conclusion, not only by the review board but also by the Privacy and Civil Liberties Oversight Board as well, the review panel, two groups of folks from the administration.

I am also interested in hearing the Senator from Oregon talk about an oped he wrote which appeared in the Los Angeles Times in December. Senator WYDEN wrote that building a backdoor into every cell phone, tablet or laptop means directly creating weaknesses that hackers and foreign governments can exploit.

I would be interested in entertaining a question concerning that.

Mr. WYDEN. Mr. President, I apologize to my colleague. I ask that my colleague restate his question.

Mr. PAUL. This is on op-ed that was written by the Senator from Oregon and appeared in the LA Times in December. The op-ed says that building a backdoor into every cell phone, tablet or laptop means deliberately creating weaknesses that hackers and foreign governments can exploit.

I think expanding on that in the form of a question would help us to understand exactly what the Senator means by that.

Mr. WYDEN. What the Senator is asking about is a statement made by the FBI Director, Mr. Comey. This is not some kind of hidden article. It was on the front pages of all of our papers and really deserves, as my colleague is suggesting, some consideration.

In fact, one of the last things I did as chairman of the Senate Finance Committee—I had a relatively short tenure there in 2014—was to hold a workshop in Silicon Valley on this issue. The problem stems from the fact that with the NSA overreach taking a huge toll on our companies and the confidence that consumers, both here and around the world, had in the privacy of their products, these companies said we have to figure out a way to make sure consumers here and around the world understand that we are going to protect their privacy. So they decided to put in place products that had strong encryption. They felt that was important to be able to assure their consumers that when they sold something, their privacy rights were protected. In doing so, of course, they also made it clear, as has always been the case, that when the government believes an individual could put our Nation at risk, you get an individual court order, you use emergency circumstances, and you could still get access to information.

The response by our government, which contributed mightily to the problem by the NSA's overreach in the first place, was our government saying: Nope. You are not going to be able to use that encryption to bring back the confidence that Americans and people around the world have in your products. There were projections that these companies were already losing billions and billions of dollars in terms of the consequences of loss of privacy.

The response of the government was to say: We are looking at requiring you to build weaknesses into your products and, in effect, create a backdoor so we can get easy entry.

(Mr. GARDNER assumed the Chair.)

I know at townhall meetings at home in Oregon, I have talked about the concept of our government requiring companies to build weaknesses into their products. People just slap their foreheads. They say: What is that all about? It is your job to make sure we have policies that both secure our liberty and keep us safe. It is not your job to tell companies to build weaknesses into their products.

In effect, you have to just throw up your hands when they say: We can't do it, so the company ought to build weaknesses into the products.

As my colleague said, I pointed out that once you do that, it will not just be the good guys who have the keys, it will be bad guys who have the keys at a time when we are so concerned about cyber security.

I wish to ask my colleague one other question on one other topic he and I have spoken about at great length. Is the Senator from Kentucky troubled by the fact that a number of high-ranking intelligence officials have not been forthright in recent years with respect to this bulk collection and the collecting of data on millions or hundreds of millions of Americans? As my colleague knows, I have been particularly troubled by this.

I ask the question because my colleague and I have pointed out that we have enormous admiration for the rank-and-file in the intelligence field. These are individuals who day in and day out get up in the morning and contribute enormously to the well-being of the American people, and we have enormous respect for them. We are grateful to them. They are patriots, and they serve us well every day. I personally do not think they have been well-served by the fact that a host of high-level intelligence officials have not exactly been straight or forthright with the Congress and the American people on these issues.

I would be interested in the views of my colleague on this subject because we have discussed this at some length. I am glad to be able to put it in the context of making sure that Americans know that the two of us greatly respect the thousands of people who work in the intelligence field and serve us well and do and have done the things necessary to apprehend and kill bin Laden but that we are concerned about the question of the veracity, the forthrightness of some of the members of the intelligence community at the highest levels. What is the reaction of my colleague to that?

Mr. PAUL. I think the vast majority of the intelligence community, as are the vast majority of policemen, good people. They are trying to do what is best for the country. They are patriotic people, and they are really trying to do what is necessary within the confines of the law.

The issue is that the intelligence community has such vast power, and a lot of it is secret power. So we have to have a great deal of trust in those who run the agency because we have entrusted them with such enormous power to look through information. Then, when they come to us and say, ''Well, you have to give up a little more liberty; you have to give up a little bit more in order to get security,'' we have to trust the information because they control all of the information they give us. And then we find—when we ask a high-ranking official in the committee whether they were doing bulk collection of data and the answer was not true—they said they weren't doing something that they obviously were doing—it makes us distrust the whole apparatus.

I agree with the Senator from Oregon that the vast majority of law enforcement and the intelligence community are good people. They are patriotic. They want to stop terrorism, as we all do. But what we are arguing about is the process and the law and the Constitution and trying to do it within the confines of the Constitution. But when we have someone at the very top who doesn't tell the truth in an open hearing under oath, that is very troubling and makes it difficult.

Mr. WYDEN. I appreciate my colleague's assessment on that issue. He knows that it was very troubling that in 2012 and in 2013, we just weren't able to get straight answers to this question of collecting data on millions or hundreds of millions of Americans.

My colleague will recall that the former NSA Director said that—he had been to a conference—and that he was not involved in collecting ''dossiers'' on millions of Americans. Having been on the committee at that point for over a dozen years, I said: Gee, I am not exactly sure what a ''dossier'' means in that context.

So we began to ask questions, both public ones, to the extent we could, and private ones, about exactly what that meant, and we couldn't get answers to those questions. We just couldn't get answers.

The Intelligence Committee traditionally doesn't have many open hearings. By my calculus, we probably get to ask questions in an open hearing for maybe 20 minutes, maximum, a year. So after months and months of trying to find out exactly what was meant, we felt it was important to ask the Director of National Intelligence exactly what was meant by these ''dossiers'' and government collecting data and the like. So at our open hearing, I said: I am going to have to ask the Director of National Intelligence about this. And because I have long felt that it was important not to try to trick people or ambush them or anything of the sort, we sent the question in advance to the head of national intelligence. We sent the exact question: Does the government collect any type of data at all on millions of Americans? We asked it so that he would have plenty of time to reflect on it. We waited to see if the Director would get back to us and say: Please don't ask it. There has always been a kind of informal tradition in the Intelligence Committee of being respectful of that. We didn't get that request, so I asked it. When I asked: Does the government collect any type of data at all on millions of Americans, the Director said no. I knew that wasn't accurate. That was not a forthright, straightforward, truthful answer, so we asked for a correction. We couldn't get a correction.

I would say to my colleague that since that time, the Director or his representatives have given five different reasons why they responded as they did, further raising questions in my mind, not with respect to the rank-and-file in the intelligence community—the thousands and thousands of hard-working members of the intelligence community my colleague and I feel so strongly about and respect so greatly.

I wish to ask just one other question with respect to where we are at this point and what is ahead. As long as the Senator from Kentucky holds the floor, no one will be able to offer a motion to consider an extension of the USA PATRIOT Act. But at some point in the near future, whether it is this weekend or next week or next month, my analysis is the proponents of phone record collection are going to seek a vote in the Senate to continue what I consider to be this invasion of privacy of millions and millions of law-abiding Americans. When that happens, I intend to use every procedural tool available to me to block that extension. And if at least 41 Senators stand together, we can block that extension and block it indefinitely. If 41 Senators stick together, there isn't going to be any short-term extension, and finally, after something like 8 years of working on this issue, finally we will be saying no to bulk phone record collection.

I am certain I know the answer to this question, but I think we both want to be on the RECORD on this matter. When that vote comes, the Senator is going to be one of the 41 Senators who are going to block that extension. I have appreciated his leadership.

I would just like his reaction to our efforts to go forward once again when we have to do it with proponents of mass surveillance seeking an actual vote to continue business as usual with respect to dragnet surveillance.

Mr. PAUL. I think the American people are with us. I think the American people don't like the idea of bulk collection. I think the American people are horrified.

I think it will go down in history as one of the most important questions we have asked in a generation when the Senator from Oregon asked the Director of National Intelligence: Are you gathering in bulk the phone records of Americans? And when he didn't tell the truth and then when the President kept him in office and then how that led to this great debate we are having now—I think the American people are with us.

I don't think those inside Washington are listening very well, so I think those inside Washington have not come to the conclusion yet. But I think the Senator from Oregon is right. There may be enough of us now to say: Hey, wait a minute, you are not going to steam roll through once again something that isn't even doing what you said it is going to do.

No one said at the time of the PATRIOT Act that it meant we could collect all records of all Americans all the time. In fact, in the House, one of the cosponsors of the bill, JAMES SENSENBRENNER, knew all about the PATRIOT Act. He was a proponent of the PATRIOT Act, and he said never in his wildest dreams did he think that what he voted for would say we could gather all the records all the time.

But I am interested in another question, and that would be whether the Senator from Oregon has a question that will help us to better understand, if we were to stop bulk collection tomorrow, if we were to eliminate what is called section 215 of the PATRIOT Act, if we were to do that, is there still concern and worry about what is called Executive Order 12333?

I am not aware of whether the Senator can or can't talk about this or what is public. From what I have read in public and from one of the insightful articles from John Napier Tye, the section chief for Internet freedom in the State Department, he has written that his concern is that this Executive order may well allow a lot of bulk collection that is not justified and not given sanction under the PATRIOT Act.

Does the Senator from Oregon have a question that might help the American public to understand that?

Mr. WYDEN. I would just say to my colleague that we always have to be vigilant about secret law. And we have, in effect, found our way into this ominous cul-de-sac that the Senator from Kentucky and I have been describing here this afternoon really because of secret law.

As I wrap up with this question and hearing the concern of my colleague—because I think that is what is at the heart of his question, that ''secret law'' is what the interpretation is in the intelligence community of the laws written by the Congress. Very often those secret interpretations are very different from what an American will read if they use their iPad or their laptop. For example, on section 215, bulk phone records collection, I don't think very many people in Kentucky or Oregon took out their laptop, read the PATRIOT Act, and said: Oh, that authorizes collecting all the phone records on millions of law-abiding Americans.

There is nothing that even suggests something like that, but that was a secret interpretation.

So I am very glad the Senator from Kentucky has chosen to have us wrap up at least this part of our discussion with the questions that we have directed to each other on this question of secret law because, as my colleague from Kentucky and I have talked about, we both feel that operations of the intelligence community—what are called sources and methods—they absolutely have to be secret and classified because if they are not, Americans could die. Patriotic Americans who work in the intelligence community could suffer grievous harm if sources and methods and the actual operations were in some way leaked to the public. But the law should never be secret. The American people should always know what the law means. And yet, with respect to bulk collection and why that court decision was so important, what happened was that a program that had been kept secret, that had been propped up by secret law, was declared illegal by an important court.

So I will just wrap up by way of saying that the Senator from Kentucky and I have always done a little kidding over the years about our informal Ben Franklin caucus. Ben Franklin was always talking about how anybody who gave up their liberty to have security really deserves neither.

I just want to tell my colleague that I am very appreciative of his involvement in this. From the time my colleague came to the Senate, he has been a very valuable ally in this effort. My colleague recognized this was not about balance. This is a program that doesn't make us safer but compromises our liberty. It is not about balance. And at page 104, you can read that the President's own advisers say that.

So I am very pleased that the informal Ben Franklin caucus is back in action this afternoon. I look forward to working closely with my colleagues on this. As I indicated by my question, I expect we will be back on the floor of this wonderful body before long having to once again tackle this question of whether it ought to be just business as usual and a re-up of a flawed law. My colleague and I aren't going to accept that.

I thank him for his work today. These discussions and being on your feet hour after hour are not for the fainthearted. I appreciate my colleague's leadership, and I once again yield the floor back to him.

Mr. PAUL. Mr. President, I would like to thank the Senator from Oregon, and I would like to point out to the American people, to people who are always crying out and saying ''Why can't you work together? Why can't you work with the other side?'' that I think we have a false understanding sometimes of compromise. The Senator from Oregon is from the opposite party. We are in two opposite parties, and we don't agree on every issue. But when it comes to privacy and the Bill of Rights and what we need to do to protect the Fourth Amendment, we are not splitting the difference to try to find a middle ground between us. We both believe in the Fourth Amendment. We both believe in protecting the Fourth Amendment and protecting your right to privacy.

So bipartisanship can be about two people believing in the same thing but just being in different parties. It means we may not agree on 100 percent of issues, but on a few, we are exactly together, and we don't split the difference. It isn't always about splitting the difference.

You can have true, healthy bipartisanship, Republican, Democrat, Independent coming together on a constitutional principle, coming together on something that is important.

I didn't come to the floor today because I want to get some money for one individual project for one person. I came because I want something for everybody. I want freedom for everybody, and I want protection for the individual. I want protection against the government's invasion of your privacy.

I thank the Senator from Oregon for his insightful questions.

One of the things we talked a little bit about as Senator WYDEN and I were going through a series of questions was some of the different boards that have been put in place by the President and have come out and said that the program—the Executive order—the President put in place two panels, a review panel and another one called the Privacy and Civil Liberties Oversight Board, and, interestingly, both panels told him the same thing: that what he was doing was illegal and wrong and it ought to stop. Then the President came out and said ''That is great,'' but then he keeps doing it.

I don't quite understand because I like the President and I take him at his word, and he says: Well, yes, I am balancing this and that, and they told me this, and if Congress stops it, I will obey Congress. It is like, we didn't start this. The President started this program by himself. He didn't tell us about it. Maybe one or two people knew about it. Almost all of the representatives didn't know about it, and no Americans knew about it. And then when we asked them about it, they lied to us and said they weren't doing it.

The President has two official panels, and they both said it is illegal and ought to stop. And the PATRIOT Act doesn't justify what they are doing. And this was all created by Executive order.

So what is the President's response? He just keeps collecting your records. Does nobody in America think this is strange or unusual that the President will continue a program that his own advisers tell him is illegal and that the courts have now said is illegal, and he goes on.

But this isn't all one-sided. That is for one political party. But in my political party, there are people saying: I guess the President's advisers say it is illegal, the court says it is illegal, but, man, they are not collecting enough. I just wish they were collecting more Americans' records without a warrant.

What a bizarre world, that people don't seem to be listening to the

courts, to the experts, or to the Constitution.

The Privacy and Civil Liberties Oversight Board, though, I think really had some insightful comments. They give a description, first of all, of collecting all of your phone records, and I like the way they put it. They said that an order was given so that the NSA is ''to collect nearly all call detail records generated by certain telephone companies in the United States. . . .'' Sometimes when you read a sentence, you don't quite get to the importance. ''Nearly all.'' So we are not talking about 1,000 records. We are not talking about 1 million records. We are talking about nearly all of the records in the entire United States. There are probably over 100 million phones, I am thinking, in the United States, so over 100 million records. Every record has thousands of pieces of information in it, so we are talking about billions of bits of information that the government is collecting.

I don't have a problem if they want to collect the phone data of terrorists. In fact, I want them to. I don't have a problem if they will go 100 hops into the data if they have a warrant. If John Doe has a warrant, look at all his phone records. Ask a judge to put his name on the warrant and look at all of his records. If there are 100 people he called and they are people you are suspicion of, call them, too. Go to the next hop, go to the next hop, go to the next hop. There is no limit. But just do it appropriately. Do it appropriately with a warrant with somebody's name on it. I see no reason why we can't do this with the Constitution.

We are now collecting the records of hundreds of millions of people without a warrant, and I think it needs to stop. The President's own commission says to stop. Here is what the commission says: ''From 2001 through early 2006 the NSA collected bulk data based on a Presidential authorization.''

So, interestingly—and this ought to scare you, too—they didn't even use the PATRIOT Act in the beginning at all. The President just wrote a note to the head of the NSA and said: Just start collecting all their stuff, without any kind of warrant. And then later on they started saying: Well, maybe the PATRIOT Act justifies this. But for 5 years they collected data with no warrant and with no legal justification, and they do it through something they call the inherent powers of the President, article II powers.

Article II is the section of the Constitution that gives the President powers. We designate what the President can do. Article I designates what we can do. Interestingly, our Framers put article I first, and those of us in Congress think that maybe they thought the powers of Congress were closer to the people and more important, and they gave delegated powers to us, and they were very specific.

But what concerns me about the bulk collection is that for 5 years it wasn't even done with regard to the PATRIOT Act. I am guessing it was done under the Executive order.

As much as I don't like the PATRIOT Act and would like to repeal the PATRIOT Act and simply use the Constitution, I am afraid that even if we repeal the PATRIOT Act, they would still do what they want. Your government has run amok. Things are runaway, and the government really is not paying attention to the rule of law.

For the first time, in 2006, the court got involved. The intelligence court at that time finally heard the first order under section 215. So for 5 years they were collecting all the phone records with just a Presidential order. Now we do it under the PATRIOT Act.

But the rule of law is about checks and balances. It is about balancing the executive branch and the legislative branch and the judiciary branch. It is about balancing the police in the judiciary. We talked about warrants and the police not writing warrants.

I see on the floor one of the Nation's leading experts in the Fourth Amendment and the Constitution, who has recently written a book on this, and I told him recently I have been stealing his story and at least half the time giving him credit for it. But I talked earlier on the floor about the story of John Wilkes, and if the Senator from Utah is interested in telling us a little bit of the story, I would like to hear a little bit from his angle or in the form of a question or any other question he has.

Mr. LEE. I would like to be clear at the outset that while the Senator from Kentucky and I come to different conclusions with regard to the specific question as to whether we should allow section 215 of the PATRIOT Act to expire, I absolutely stand with the junior Senator from Kentucky and, more importantly, I stand with the American people.

With regard to the need for a transparent, open amendment process and for an open, honest debate in front of the American people on the important issues facing our Nation, including this one—and I certainly agree with the Senator from Kentucky that the American people deserve better than what they are getting, and, quite frankly, it is time that they expect more from the Senate.

On issues as important as this one, on issues as important as the right to privacy of our citizens and our national security, this is not a time for more cliffs, more secrecy, and more eleventh-hour backroom deals that are designed to mix conflict, mix crisis in a previously arranged time crunch in which the American people are presented with something where they don't really have any real options.

It is time for the kind of bipartisan, bicameral consensus I believe is embodied in the USA FREEDOM Act. While I often criticize Congress for our economic deficits, our financial deficits, the core of this current challenge we face is centered around the Congress's deficit of trust—in this particular circumstance, the Senate's deficit of trust. Members of our body routinely tell the American people to just trust us. Trust us, we will get it right. Just trust us, we will appropriately balance all the competing concerns.

I think it is time that we trust the American people by having an honest discussion with them emanating from right here on the floor of the Senate. It is time to discuss and debate and to amend the House-passed USA FREEDOM Act.

I am confident that Senator PAUL and others among my colleagues who have different ideas from mine will be happy to offer and debate amendments to improve it and make it something perhaps that they could even support. In fact, as far as I am aware, Senator PAUL and others have amendments that they are eager and anxious and willing and ready to present and to have discussed here on the floor and voted on right here on the floor of the Senate.

But first I am calling on my Republican and Democratic colleagues to help repair the dysfunctional legislative branch we have inherited, to rebuild the Senate's reputation as not only our Nation's but the world's greatest deliberative body, and, by extension, slowly restore the public's confidence in who we are and what we are here to do here in the Senate.

The greatest challenge to policymaking today is perhaps distrust. The American people distrust their government. They distrust Congress in particular. It is not without reason. For their part, Washington policymakers seem to distrust the people.

Almost as pressing for the new majority here in the Senate is that the distrust that now exists between grassroots conservative activists and elected Republican leaders can be particularly toxic. Leaders can respond to this kind of distrust in one of two ways. One option involves the bare-knuckles kind of partisanship that the previous Senate leadership exhibited over the last 8 years, twisting rules, blocking debate, and blocking amendments, while systematically disenfranchising hundreds of millions of Americans from meaningful political representation right here in this Chamber. But this is no choice at all. Contempt for the American people and for the democratic process is something Republicans should oppose in principle. In fact, it is something we oppose in principle.

We should throw open the doors of Congress, throw open the doors of the Senate, and restore genuine representative democracy to the American Republic. What does this mean? Well, it means no more cliff crises, no more secret negotiations, no more ''take it or leave it'' deadline deals, no more passing bills without reading them, and no more procedural manipulation to block debate and compromise. These are the

abuses that have created today's status quo—the very same status quo that Republicans have been elected to correct.

What too few in Washington appreciate and what this new Republican majority in Congress must appreciate if we hope to succeed is that the American people's distrust of their public institutions is totally justified. There is no misunderstanding here. Americans are fed up with Washington, and they have every right to be. The exploited status quo in Washington has corrupted America's economy and their government, and its entrenched defenders, powerful and sometimes rich in the process. This situation was created by both parties, but repairing it is now going to fall to those of us in this body right now. It is our job to win back the public's trust. That cannot be done simply by passing bills or even better bills. The only way to gain trust is to be trustworthy. I think that means that we have to invite the people back into the process, to give the bills we do pass the moral legitimacy that Congress alone no longer confers.

In order to restore this trust, Members will have to expose themselves to inconvenient amendment votes, inconvenient debate and discussion, and scrutiny of legislation we are considering. The result of some votes in the face of certain bills may, indeed, prove unpredictable, but the costs of an open source, transparent process are worth it for the benefits of greater inclusion and more diverse voices and views and for the opportunity such a process would offer to rebuild the internal and the external trust needed to govern with legitimacy.

My friend and colleague, the junior Senator from Kentucky, has referred to a story of which I have become quite fond, a story that I have written about and talked about in various venues throughout my State and throughout America. It relates to a lawmaker, a lawmaker who served several hundred years ago, a lawmaker named John Wilkes—not to be confused with John Wilkes Booth, Lincoln's assassin. This John Wilkes served in the English Parliament in the late 1700s.

In 1763, John Wilkes found himself at the receiving end of anger and resentment by the administration of King George III. King George III and his ministers were angry with John Wilkes.

At the time, there were these weekly news circulars, weekly news magazines that went out and would often just extol the virtues of King George III and his ministers. One of them was called the Briton. The Briton was written, produced, and published by those who were loyal to the King, and they would say only glowing things about the King. They would write things about the King saying: Oh, the King is fantastic. The King can do no wrong. Had sliced bread been invented as of 1763, I am sure the Briton would have reported that the King was the greatest thing since sliced bread. All they could say were nice things about the King because they were written by the King's people.

Well, John Wilkes decided to buck that trend. He started his own weekly circular called the North Briton. The North Briton took a different angle. The North Briton took the angle that it was supposed to be in the interests of the people that he reported the news and that he made commentary. So in the North Briton John Wilkes would occasionally be so bold as to criticize or question King George III and the actions of the King and of the King's ministers.

This proved problematic for some in the administration of King George III. The last straw seemed to come with the publication of the 45th edition of the North Briton, North Briton No. 45. When North Briton No. 45 was released, the King and his ministers went crazy. Before long, John Wilkes found himself arrested. John Wilkes found himself subjected to a very invasive search pursuant to a particular type of warrant. It had become, unfortunately, all to common in that era, a type of warrant we will refer to as a general warrant. Rather than naming a particular place or a particular person where things would be searched and seized, this warrant simply identified an offense and said: Go after anyone and everyone who might in some way be involved in it. It gave unfettered, unlimited discretion to those executing and enforcing this warrant as to how and where and with respect to whom this warrant might be executed.

So they went through his house even though he was not named in the warrant, even though his home, his address, was not identified in the warrant. They searched through everything. John Wilkes was, understandably, outraged by this, as were people throughout the city of London when they became aware of it. John Wilkes, while in jail, decided he was going to fight back. He fought in open court the terms and the conditions of his arrest. He ended up fighting against this general warrant. He eventually won his freedom.

Over time, he was reelected repeatedly to Parliament. In time, he also brought a civil suit against King George III's ministers who were involved in the execution of this general warrant, and he won. He was awarded 4,000 pounds, which was a very substantial sum of money at the time. The other people who were subjected to the same type of search under the same general warrant were also awarded a recovery under this same theory, to the point that in present-day terms, there were many millions of dollars that had to be paid out by King George III and his ministers to the plaintiffs who sued under this theory that they were unlawfully subjected to a search under a general warrant.

In time, the number 45, in connection with the North Briton No. 45—the publication that had sparked this whole inquiry—the number 45 became synonymous with the name John Wilkes, and then John Wilkes in turn became synonymous with the cause of liberty. People throughout Britain and throughout America would celebrate the cause of freedom by celebrating the number 45. It was not uncommon for people to buy drinks for their 45 closest friends. It was not uncommon to write the number 45 on the side of buildings, taverns, saloons. It was not uncommon for the number 45 to be raised in connection with cries for the cause of liberty. So the number 45, the name John Wilkes, and the cause of liberty all became wrapped up into one.

It was against this backdrop that the United States was becoming its own Nation. When it did become its own Nation, when we adopted a Constitution, and when we decided shortly thereafter to adopt a Bill of Rights, one of the very first amendments we adopted was the Fourth Amendment. The Fourth Amendment responded to this particular call for freedom by guaranteeing that in the United States we would not have general warrants. The Fourth Amendment makes that clear. It contains a particularity requirement stating that any persons or things subject to search warrants would have to be described with particularity. The persons would have to be identified or at least an area or a set of objects would have to be identified rather than the government just saying: Go after anyone and everyone who might be connected with this offense or with this series of events.

At that time, there were no such things as telephones. Those would not come along for a very long time. They certainly did not imagine, could not have imagined, the types of communications devices we have today. Nevertheless, the principles that they embraced at the time are still valid today, and they are still relevant today. The principles embodied in the Fourth Amendment are still very much applicable today. The freedom we embraced then is still embraced today by the American people, who, when they become aware of it, tend to be offended by the notion that the NSA can go out and get an order that requires the providers of telephone services to just give up all of their data, give up all of their calling records, to give those over to a government agency that will then put them into a database and keep track of where everyone's telephone calls have gone.

The idea behind this program is to build and maintain a database storing information regarding each call you have made and each call that has been made to you, what time each call occurred, and how long it lasted. This is an extraordinary amount of information, information that, while perhaps relatively innocuous in small pieces, when put together in a single database—one that includes potentially more than 300 million Americans, one that goes back 5 years at a time—can

be used or could easily be abused in such a way that would allow the government to paint a painfully clear portrait, a silhouette of every American. Some researchers have suggested, for example, that through metadata alone, it could be ascertained how old you are, what your political views are, your religious affiliation, what activities you engage in, the condition of your health, and all other kinds of personal information.

One of the reasons this is distressing is, that, unlike a program that would involve listening to the content of your telephone calls—which, of course, is not at issue with respect to this program—all of this can be done with a high degree of automation, such that those intent on abuses could do so with relative ease, with the type of ease that they would not have access to absent this type of automation.

Sometimes people are inclined to ask me: Where is the evidence that this particular program is being abused? What can you point to that suggests anyone has used this for a nefarious political purpose or for some other illegitimate purpose not connected with protecting American national security?

I have a few responses to them. First and foremost, we do need to look to the Constitution, both to the letter and spirit of that founding document that has fostered the development of the greatest civilization the world has ever known. It isn't important for its own sake simply because we have taken an oath to uphold, protect, and defend it as Members of this body. The Constitution is an end unto itself. It is important that we follow it regardless of whether we can point to some particular respect in which this particular program has been abused.

Secondly, even if we assume, even if we stipulate for purposes of this discussion that no one within the NSA is currently abusing this program for nefarious political purposes or otherwise, even if we assume no one within the NSA currently is even capable of abusing or has any inclination to abuse this program at any point in the future, I would ask the question: Can we say we are certain that will always be the case? Who is to say what might happen 1 year from now, 2 years from now, 5 years, 10 years or 15 years from now?

We know how these things happen. We understand something about human nature. We understand what happens to human beings as soon as they get a little bit of power. They tend to abuse it.

Remember the investigation brought about by Senator Frank Church in the 1970s. Senator Frank Church, when he investigated wiretap abuses—abuses of technology that was still only a few decades old back in the 1970s when this occurred—the Church Committee concluded, among other things, that every Presidential administration from FDR through Richard Nixon had abused our Nation's investigative and counterintelligence agencies for partisan, political purposes to engage in political espionage. Every single one of those administrations from FDR to Nixon had done that.

In that sense, we have seen this movie before. We know how it ends. We know that even though the people working at the NSA today might well have only the noblest of intentions, over time these kinds of programs can be abused, and we know a lot of people in America understand the potential for this abuse.

Thirdly, I have to point out that the NSA currently is collecting metadata only with respect to phone calls. But under the same reading of section 215 of the PATRIOT Act that the NSA has used to collect this metadata—a reading with which I disagree and a reading with which the U.S. Court of Appeals for the Second Circuit disagreed in its thoughtful, well-written opinion just about 2 weeks ago—even though the NSA is currently collecting only telephone call metadata right now, there is nothing about the way the NSA reads section 215 of the PATRIOT Act—which is incorrect, by the way, an incorrect reading—but there is nothing about that reading that would limit the NSA to collecting only metadata related to telephone calls.

So who is to say the NSA might decide tomorrow or next year or a couple of years from now—if we reauthorize this—or at some point down the road during a period of reauthorization, that the NSA will not decide at that point to begin collecting other types of metadata, not just telephone call metadata but perhaps credit card metadata, metadata regarding people who reserve hotels online, regarding emails that people send or receive, regarding Web sites that people visit online, regarding online transactions that occur. Those are all different types of metadata.

Now, again, I disagree with the NSA's legal interpretation of section 215 of the PATRIOT Act. I think they are abusing it. I think they are misusing it. I think they have dangerously misconstrued it, just as the U.S. Court of Appeals for the Second Circuit concluded a few weeks ago. But this is their interpretation. And if we reauthorize this, are we not reauthorizing, in some respects, or at least enabling them to continue this? I don't think we are validating or ratifying what they are doing.

Their interpretation of it is still wrong, but we are enabling them to engage in a continued ongoing practice of abuse of the plain language of section 215, which requires that anything they collect be relevant to an investigation.

Well, their interpretation of ''relevant to the investigation'' is we might at some point in the future deem this material relevant to what we might at some point in the future be investigating. That cannot plausibly, under any interpretation of the word ''relevance,'' be acceptable. And it was on that basis that the Second Circuit rejected the NSA's interpretation.

In any event, that same interpretation will still be the NSA's interpretation if, in fact, we reauthorize this.

There is nothing stopping the NSA from using that same interpretation—mistaken interpretation but an interpretation nonetheless—of section 215 in a way that would allow—there is nothing stopping them from using that same misinterpretation of a statutory language for the purposes of gathering metadata on credit card usage, on online activity, on emails sent online and received. From that you can discern even more information about a person's profile. You can come up with a very frighteningly accurate picture of anyone based on that kind of metadata, just as you can now, but that would give them an even bigger picture. That would be an even greater affront to the privacy interests of the American people.

All of this relates back to the idea that the government shouldn't be able to go out and say: Here is a court order. We want all of your information. We want all of your data. Just give it to us because we might want it later.

This type of dragnet operation is incompatible with our legal system. It is incompatible with hundreds of years of Anglo-American legal precedence. It is incompatible with the spirit, if not the letter, of the U.S. Constitution, and it is not something we should embrace.

At the end of the day, we need to do something with this program. Not everyone in this Chamber agrees on what that something is, and not everyone in this Chamber who believes we need reform or who believes the NSA's program of bulk metadata collection is wrong agrees on the same solution. But the way for us to get to a solution must involve open, transparent debate and discussion, and it absolutely should involve an open amendment process.

So if there are those who have concerns with the legislation passed by the House of Representatives last week by a vote of 338 to 88, I welcome their input. I welcome any amendments they may have. I welcome the opportunity to make the bill better, to make it more compatible with this or that interest, to make it do a better job of balancing the privacy and national security interests at stake.

But we have to have that debate and discussion, and we have to have that process in order for the American people to be well represented and well served. We cannot continue to function by cliff.

Government-by-cliff is a recipe for disaster. Government-by-cliff results in a take-it-or-leave-it, one-size-fits-all binary set of choices that disserve the American people. Government-by-cliff all too frequently results in temporary extensions rather than some type of lasting legislative solution that can help the American people feel more comfortable that they are being well represented.

So I would ask my distinguished colleague, my friend the junior Senator

from Kentucky, if there are not ways in which we could come to an agreement, if we as a body couldn't come to an agreement on how best to resolve this difficult circumstance, if the cause of protecting American national security is irreconcilably in conflict with the privacy interests that are part of the Fourth Amendment and, most importantly, I would ask my friend from Kentucky if privacy isn't, in fact, part of our security rather than being in conflict with it.

I would be interested in any thoughts my friend from Kentucky might have on that issue.

Mr. PAUL. Mr. President, the Senator from Utah makes a very good point and also asks some very good questions.

In saying that we tend to work against headlines here, I often say we lurch from deadline to deadline, and the American people wonder what the heck we are doing in between the deadlines.

The PATRIOT Act has been due to expire for 3 years. It is on a sunset of 3 years. We knew 3 years ago that this debate was coming. There should be plenty of time and, I think, adequate time to discuss issues that affect the Bill of Rights, that affect rights that were encoded into our Constitution from the very beginning.

So I think without question the issue is of great importance and then we should debate it. But too often budgetary measures—or maybe this measure—get so crowded up against deadlines that people are like: Oh, we don't have time for amendments. The problem is, if you don't have amendments, you are not really having debate.

I think the Senator characterized very well that we both agree the bulk collection of data is wrong. We think that goes against the spirit and the letter of the Constitution.

However, at least half of us that we would encounter in this body don't even agree with that supposition. They believe, as many of them have pointed out, we are not collecting enough, and they don't care how we collect it, let's just collect more.

So we are on different sides of opinion, two groups here. And then some of us aren't exactly on the same page as to the solution, but we agree on the problem. I think you could work through to the solution if you all agreed it is a problem and that the American people think we have gone too far.

I think that is what the purpose of some of this debate today is, hopefully to draw in the American public and have them call their legislators and say: Enough is enough. You shouldn't be collecting my data unless you suspect me of a crime, unless my name is on the warrant. Unless you had a judge sign the warrant for me, you shouldn't be collecting all the data of all Americans all the time.

I think part of our problem is the deadlines, and part of the reason I am here today is that I have been working on five or six amendments for a year now with Senator WYDEN, so we have bipartisan support for a series of amendments. These are what we think would be best to fix this problem. Certainly, when we have had 3 years to wait for this moment, we ought to have enough time to vote on five or six amendments.

So that is really, I think, what we are asking of the leadership of both sides—is permission. Because, really, in this body, everybody has to agree to let you vote on something or no votes happen.

We have done a better job this year. We are voting on more amendments, but this is still one of those occasions where we are butting up against a deadline. My fear is that without extraordinary measures—which I am hopefully trying to do today—that we may not get a vote on amendments and we may not get adequate time to debate this, I think, important issue.

Some of the amendments we have been interested in presenting as a way to fix this—so first you have to agree with what the problem is. We think the problem is that the government shouldn't collect all of your phone records all of the time without putting your name on a warrant, without telling a judge that they have suspicion that you have committed a crime. We think that collecting everyone's phone records all of the time without suspicion is sort of like a general warrant. It is like a writ of assistance, it is like what James Otis fought against, it is like what John Adams said was the spark that led to the American Revolution.

So we think the American people also believe this, that the American people believe their records shouldn't be collected in bulk, that there should not be this enormous gathering of our records.

What we need to do is get to a consensus where everybody agrees that is a problem. But the body is still divided. About half of the Senate believes we should collect more records, that we are not invading your privacy enough, that privacy doesn't matter—that, by golly, let the government collect all of your records to be safe.

Well, when the privacy commission looked at this, when Senator WYDEN looked at this, and when other people who have the intimate knowledge looked at this, their conclusion was that the bulk collection of our records, this invasion of privacy, isn't even working, that we aren't capturing terrorists we wouldn't have caught otherwise by this information. So the practical argument that says we will give up our privacy to keep us safe, even that argument is not a valid argument.

But we have been looking at some of the possible solutions—and I see the Senator from New Mexico and would be pleased to entertain a question if he has a question.

(Mr. LEE assumed the Chair.)

Mr. HEINRICH. Yes. I thank my friend from Kentucky and ask him if he would yield for a question without losing his right to the floor.

I want to start out by prefacing this for a few minutes, from my limited experience—just over the past a little over 2 years, and I am on the Intelligence Committee now—by saying there is simply no question that our Nation's intelligence professionals are incredibly dedicated, patriotic men and women who make real sacrifices to keep our country safe and free and, in that, they should be able to do their job, secure in the knowledge that their agencies have the confidence of the American people. And Congress—those of us here—needs to preserve the ability of those agencies to collect information that is truly necessary to guard against real threats to our national security.

The Framers of the Constitution, as my colleague from Kentucky knows, declared that government officials had no power—no power—to seize the records of individual Americans without evidence of wrongdoing. And it was so important that they literally enshrined and embedded this principle in the Fourth Amendment to the Constitution.

In my view, the bulk collection of Americans' private telephone records by the NSA in this program clearly violates the spirit—if not the letter—of the intentions of the Framers here.

Just 6 months after my first Senate intelligence briefing, former National Security Agency contractor Edward Snowden leaked documents that exposed the NSA's massive collection of Americans' cell phone and Internet data. And as my friend from Kentucky said, not just a few Americans but literally millions of innocent Americans were caught up in what is effectively a dragnet program.

It was made clear to the public that the government had convinced the FISA Court to accept a sweeping reinterpretation of section 215 of the PATRIOT Act, which ignited, in my view, a very necessary and long overdue public conversation about the trade-offs made by our government between protecting our Nation and respecting our constitutional liberties.

I think well-intentioned leaders had, during the previous decade, come down decidedly on the side of national security with a willingness to sacrifice privacy protections in the process. And what became obvious was that because of our continued lack of knowledge of Al Qaeda and other terrorist organizations, some within our government believed we still needed to collect every scrap of information available in order to ensure that, should we ever need it, we could query this information and track down U.S.-based threats. In doing so, the government ended up collecting billions of call data records, linked in case after case after case not to terrorists but to innocent Americans.

Wisconsin Republican Congressman JIM SENSENBRENNER, who I served with in the House of Representatives, who was one of the authors of the original underlying legislation—the PATRIOT Act itself—said a couple of years ago: ''The PATRIOT Act never would have passed . . . had there been any inclination at all that it would have authorized bulk collections.''

As this debate increasingly moved to the public sphere, I joined my colleagues on the Select Committee on Intelligence—Senator WYDEN, who was just here on the floor a few minutes ago, and former Senator Mark Udall—in pressing the NSA and the Director of National Intelligence for some clear examples in which the bulk information collected under this metadata program, under section 215, was uniquely responsible for the capture of a terrorist or the thwarting of a terrorist plot. They could not provide any—not a single solitary example—nor could they make a case for why the government had to hold the data itself and why for so long.

Thankfully, a review panel set up by President Obama agreed with us and recommended that the government end its bulk collection of telephone metadata.

I will admit, however—and my friend from Kentucky has brought this up on several occasions already—that I am incredibly disappointed that the President hasn't simply used his existing authority to unilaterally roll back some of the unnecessary blanket metadata collection. Some have claimed this inaction is evidence that the President secretly supports maintaining the current program as is. That, however, is nonsense.

The President has asked Congress to give him additional authorities so that he can carry out the program in an effective manner, and the USA Freedom Act seeks to do just that.

The Republican-led House of Representatives last week passed that bill—the USA Freedom Act—by a vote of 338 to 88, with large majorities from both parties. At a time when everyone believes we agree on nothing, large majorities of Republicans and Democrats supported that piece of legislation.

Further, the Second Circuit Court of Appeals ruling that the NSA is violating the law by collecting millions of Americans' phone records is even more proof that we have gone too far and need to recalibrate and, in my view, refocus our efforts. Why on Earth, I would ask, would we extend a law that this court has found to be illegal?

Given the overwhelming evidence that the current bulk collection program is not only unnecessary but also illegal, I think we have reached a critical turning point, and I want to thank my colleague from Kentucky for coming to the floor to force us all to have this conversation. We have kicked the can down the road too many times on this particular issue, and I believe it is time to finally end the bulk collection of these phone records and instead focus more narrowly on the records of actual terrorists.

Americans value their independence. I know this is especially true in my home State of New Mexico. They cherish their right to privacy that is guaranteed by our Constitution. But some of our colleagues still think it is OK for the government to collect and hold millions of private records from innocent citizens and to search those records at will.

The majority leader is asking us to act quickly to reauthorize. I believe it would be a grave mistake to reauthorize the existing PATRIOT Act, and I join my colleagues in blocking any extension of the law that does not include major reforms, including an end to bulk collection.

I think we can and we must balance government's need to keep our Nation safe with its sacred duty to protect our constitutionally guaranteed liberties. And I guess this brings me to my question for the Senator from Kentucky.

How on Earth can you possibly square what the Fourth Amendment says, in terms of our papers and our ability to control our own effects without a warrant, with the government's bulk collection of phone records of law-abiding American citizens?

Mr. PAUL. Mr. President, I thank the Senator from New Mexico for that great question.

I think there is no way we can square this bulk collection with the Fourth Amendment. I think part of the problem, though, is that we, over a long period of time, diminished the protections of records held by third parties. And I think one of the debates we need to get hopefully to the Supreme Court sometime soon is whether you give up your privacy interest in records that are held by third parties.

I think there will come a time that your papers, once held in your house—there are no papers in your house. There may not be paper. But there is still the concept of records. Records were traditionally on paper, and they were traditionally in your house. But now your most private papers are held digitally by your phone, and then by the people who are in charge of the different organizations such as phone, email, et cetera.

I think there has to be Fourth Amendment protection of these. Those who look at the court cases, and go back to probably the last important case, the Maryland v. Smith case, often say there is no Fourth Amendment protection at all for these records. In fact, the government will tell you they can do whatever they want with email, with text, and with all of these things. And I am not convinced they are not using other programs, such as this Executive order program, to actually collect many other kinds of metadata other than phone calls.

So I am very worried about it. I think we need help from the courts. But we need help from the legislative body to represent the will of the people. And I think the will of the people is very clear that the majority of people think we have gone too far and that we need to stop this indiscriminate vacuuming up of all Americans' phone records regardless of whether there is suspicion.

Mr. HEINRICH. Mr. President, I would ask the Senator from Kentucky an additional question. I found it very helpful before I came to the floor today—and I want to thank my colleague again for raising these critical issues—to go back and read the Fourth Amendment, and I thought it would be worthwhile just to briefly read that once again here on the floor because I think it really puts you in the mind of some of the greatest Americans who ever lived.

Our Framers wrote a constitution that has survived for well over 200 years now. It has survived Republicans. It has survived Democrats. It has survived political parties that came and went, and it has survived great conflicts time and again.

The Fourth Amendment says: ''The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.''

I would ask my friend from Kentucky his views on the resilience of this constitutional document and how he can possibly read the actual text of this Fourth Amendment without realizing that those Framers really meant for this to apply into the future to things that we hadn't foreseen yet but using the broadest terminology available, such as words like effects and papers?

I yield the floor and thank the Senator from Kentucky once again. This is one of those issues that unite people on the left and the right, Republicans and Democrats, who care deeply about our national security but also care about our constitutional liberties. I think the time to fix this is upon us. And without shining a light on this, we certainly are not going to be able to make the progress we need. We have an opportunity here, and we should seize it.

I yield the floor to the Senator from Kentucky.

Mr. PAUL. Mr. President, I thank the Senator from New Mexico for coming down and for being a great supporter of the Fourth Amendment.

One of the things I think is interesting is that in our current culture we seem to devalue the Fourth Amendment. You go to—at least on our side—all kinds of groupings and gatherings, and there is a lot of talk of the Second Amendment, talk of the First Amendment, but there hasn't been so much of the Fourth Amendment until we got to this point with the collection of data seeming to be running amok.

One of our Founding Fathers was George Mason. He was considered to be

an anti-Federalist. He was a guy who really stood on principle, but also he was a guy who had the audacity to actually not sign the Constitution, even though he was asked and he was there and could have.

On September 17, 1787, he refused to sign the Constitution and returned to his native State as an outspoken opponent of the ratification contest. His objection to the proposed Constitution was that it lacked a declaration of rights. Mason felt that a declaration of rights—or what we call a bill of rights—was a necessity in order to curb Federal overreach.

Mason, though, was also famous for being an author of the Virginia Declaration of Rights, which was written a decade or so before our Constitution and upon which many things were based. He wrote in the first paragraph of the U.S. Declaration of Independence something similar to what we hear in the Declaration of Independence:

> That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot by any compact deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

In the Declaration of Rights, which comes from 1776, for Virginia, he also was instrumental in including article IX. Article IX is basically the precursor to the Fourth Amendment. In it, he wrote:

> That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

So from the very beginning, the Fourth Amendment was a big deal. It was a big enough deal that the fact that it wasn't included caused George Mason to say he couldn't sign the Constitution. It was a big enough deal that this debate went on for a while, and finally the resolution of getting the Constitution included that there would ultimately be a Bill of Rights. Thomas Jefferson wrote about the Bill of Rights. He said:

> A bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inferences.

I like the way he put it: A Bill of Rights is what the people are entitled to against every government. It is a protection.

Jefferson also described the Constitution as the chains of the Constitution. The chains were to bind government and to prevent government from abusing its authority.

When we have adhered to this, when we paid strict attention to it, we have maximized our freedom. When we have let our guard down, when we have allowed our guard to stray away, when we have allowed the government to usurp authority to gain and grab and take more power, it has been at the expense of freedom.

I think we can be safe and have our freedom as well. I think we can obey the Constitution and catch terrorists at the same time. I think, in fact, frankly—strictly from a practical point of view—I think we gain more information by using the Constitution. By having less indiscriminate collection of data and by having more collection of discriminating data—data that is based on suspicion, data that is based on tips, data that is based on human intelligence, data that we can focus all of our human energy on—I think we actually will catch more terrorists. I think there has been instance after instance after instance where we did have information on terrorists and we failed to act, perhaps because we are spending so much time and so much energy on the indiscriminate collection of data.

William Brennan is one of our famous Justices, and he said of the Framers:

> The Framers of the Bill of Rights did not purport to ''create'' rights. Rather, they designed the Bill of Rights to prohibit our Government from infringing rights and liberties presumed to be preexisting.

We didn't create the rights. Government didn't create your rights. Your rights come naturally to you. For those of us who believe in a Creator, they come from our Creator. But they are important to protect. They should be protected against all forms of even majority. It is why some of us think it very important to say that we are a Republic, we are not a democracy; that no majority should be able to take away our rights. That is why this is important. I think these questions ultimately get to the Supreme Court. Because no matter what the majority says here, no matter what the majority of the legislature says, the Bill of Rights lists and codifies rights that cannot and should not be taken away by a majority: the rights that we have to be left alone—as Justice Brandeis said, the most cherished of rights, the right to be left alone. But this debate is a long and ongoing debate. For nearly 100 years, from the Olmstead case in 1928 to the present, we have had a discussion and a struggle and a controversy over what parts of our conversations are to be protected and what parts are not to be protected.

I think a lot of our problems really originated with going the wrong way in 1928 with the Olmstead case because we went for a long period of time—we went for two generations thinking that your phone calls were not private and that your phone calls were not protected by the Fourth Amendment. Then, we finally got to the 1960s, and we reversed that and we said your conversations are to be protected. But within a decade we made the wrong decision again and said that your records are not to be protected—that your Fourth Amendment, your records once held by the phone company, aren't to be protected. I think that was a mistake.

I think it is also a mistake to think we are literally talking about paper in your house because there is quickly coming a time in which technology will be such that there will be no papers. Papers will be another word for ''records,'' but your records will not be kept in your house.

They already aren't. There was a discussion of this in whether we can search a person's individual phone, and the Court did rule I think in an accurate way. The Court and one of the Justices said that, basically, the information found on your phone is more personal and more extensive than probably any papers that were ever in any home in a time before electronics. So we are going to have to catch up to electronics, we are going to have to catch up to the digital age, and we are going to have to decide does the individual maintain a privacy interest and/or a property interest.

I, frankly, think that when the phone company holds my records, that they are partly mine; that there is a property interest and a privacy interest I haven't relinquished. Unless I have given explicit permission, I don't think I have given up my privacy. In fact, many times it is the opposite.

Many times what we have actually said is, when I agree to do banking with you or I agree to have you hold my telephone calls or I agree to do Internet searches with you, I have an explicit agreement often. The agreement is so explicit to defend my privacy that when they don't, they are actually fearful of being sued. And so all of this craziness, all of this overreach, all of this loss of our privacy comes with a little additional caveat that is written into all the laws and everybody is clamoring for and it is what they want now—liability protection. They want to be able to violate their privacy agreement. So we give them liability protection. They don't want to be sued, but they realize they are violating and could be accused of violating our privacy agreement.

So as much as I hate and despise frivolous lawsuits, the threat of suing somebody causes them to obey their contract. If they don't have the threat—if you say: Well, we are going to have contracts, but we are not going to enforce them with the threat of a lawsuit, then contracts become meaningless. So it is really important that as we move forward, we try to say to people the privacy agreement you signed is a real document, it is a real contract, and it should be protected.

When referring to the Bill of Rights, Gen. Smedley Butler, who was a two-time Medal of Honor winner and a Brevet Medal of Honor winner, said:

> There are only two things we should fight for. One is the defense of our homes and the other is the Bill of Rights.

When I have talked to the young men and women who have fought bravely for our country—young men and women who have lost limbs, families of those who have lost lives—that is what

I hear from every one of them. I hear from them that they were fighting to defend the Bill of Rights. They were fighting to defend our Constitution.

What saddens me is that while they were fighting for our Constitution, while they were fighting for our Bill of Rights, their legislators weren't fighting for the Bill of Rights. Their legislators were turning the other way. Their legislators were so fearful of attack that they gave up on the Bill of Rights and said: Here is my liberty, just give me security. This is a longstanding debate. Franklin had it right—those who are willing to give up their liberty may end up with neither.

Now, some would ask: Why am I here today? What do I propose to get out of this? Is there an end point when I will go home and be quiet and quit talking about the Bill of Rights?

I think there could be. I think if the leadership of both parties in the Senate would agree to have a debate on the PATRIOT Act, if they would agree to have amendments and have votes—and I will give some examples of some things that we think—most of these will ultimately be introduced in all likelihood by Senator WYDEN and I. I will start with the first one. This is based upon an amendment that he and I have worked on together. This amendment would prohibit mandates on companies that alter their products to enable government surveillance. So this amendment prohibits any mandates from government agencies requiring private companies to alter their security features—their source code—to allow the government to get into their stuff and into your lives.

This amendment would apply to computer services, hardware, software, and electronic devices made available to the general public.

Currently, the government is requiring and sometimes telling companies they can't even tell you this. They are requiring access to certain products. There have been stories of them inserting malware on Facebook, giving you access to Facebook, and then getting into your Facebook account through the Facebook code source. I know Facebook has objected to this and fought them on this, but our amendment would say that the government just can't do this. The government cannot force different social networking sites and different Internet software cannot force them to give the government access indiscriminately.

The question would be: Can the government require things specifically? Absolutely, yes. Present evidence to get a warrant, and realize that when they want to make you so afraid that you give up all your records, realize that warrants aren't hard to get. The FISA warrants are almost without question agreed to, maybe to a fault. Ninety-nine percent-plus of all the warrants ever requested are granted. I think it is not too much of a step to say we should ask and request warrants.

The second amendment we would consider putting forward, if we were allowed to and allowed to have votes on, would replace the PATRIOT Act extension with comprehensive surveillance reform. We would replace the extension of expiring authorities with substantial reforms, as originally proposed by Senators WYDEN and PAUL and others in the Intelligence Oversight and Surveillance Act of 2013.

This amendment would end bulk collection and replace it with nothing. We would close the section 702 backdoor search loophole, which allows the government to say they are searching foreigners' records but in reality gather up 90 percent of the records being American records and called incidental. We would close this backdoor loophole where actually American records are being collected, not foreign records. We would create a constitutional advocate to argue before the FISA Court, before the intelligence court.

The reason I think this is necessary is that the court has somewhat become a rubberstamp for the government, and we aren't allowing any kind of opposing arguments and we really aren't having any argument. For example, we have loosened the standard from the constitutional standard, which is probable cause, and we have said it is relevant. So we get to relevance. But when you come before the court, I don't think anybody is debating or being asked to prove whether it is relevant. Certainly they must not because they are somehow approving the collection of everybody's records in the United States—which I don't know of anybody who believes the word ''relevant'' can include everybody.

So if we had an advocate or we had someone to say this is the other side—I think it is really important. I am not a lawyer, but I understand they argue with each other all the time and you are supposed to figure out the truth. You argue and advocate for your side, and then somehow you apply the truth or people arbitrate what they think the truth is from this discussion. If only the government argues, you can't get even any sense or form of what truth is.

So what we would argue in our second amendment is that you actually have an advocate that argues on that side. I would go further, though, and say that not only do you have an advocate, you should have an avenue for appeal.

I am with Senator WYDEN. I want to protect all the people doing this. I don't want any names revealed. I don't want any agents revealed. I don't want to endanger the people who are risking their lives for our country to gain intelligence. But I do think the law in general can be debated. Senator WYDEN talked about how the law doesn't need to be secret; the operations need to be secret.

So we can protect all of that. But I think the law should be debated. For example, the question now whether you have any privacy interest in your third-party-held records—whether the Fourth Amendment protects these at all, that is our constitutional question. That should not be decided in secret, and you really can't have justice decided in secret.

The other part of our amendment would give Americans spied on by the government standing to sue in court and end the practice of reverse targeting, under which the government targets the communication of an American without a warrant by targeting the non-U.S. person they speak to. By some reports, it is even worse than that. I mentioned earlier that an enormous amount of what the PATRIOT Act does—which is supposed to go after foreigners—is actually being used domestically for drug crimes.

There have been reports that the information is being gathered through an intelligence warrant, and then they go back with the traditional warrant after they have gotten information through a lower standard—through a nontraditional, nonconstitutional investigation. Then they go back, and they get the warrant after using this information or they recreate the scenario in order to get the information they need. Then they do not tell the judges they got the information through the intelligence angle.

Another amendment that we would like to ask the leadership of both sides if they would let us introduce it and if we were allowed to debate this and have an open amendment process would be that the warrantless crime could not be used against Americans in nonterror criminal cases.

This was originally the way it was. This is why you have to worry about the slippery slope. Back in the 1970s, they said: OK, we are going to have a different standard to get foreign tariffs. Even I, who want to keep good standards, can accept a little bit of that—a slightly lower standard for people who do not live here and are not American citizens and are not part of our country. It has its dangers, but even I might be able to accept that. But what I cannot accept is that you lower the constitutional standard. You are going to use a terrorist warrant that has a lower procedural hurdle, and then you are going to use it for domestic crime.

That is exactly what is going on now. We should be appalled that they destroyed the Fourth Amendment for certain crimes and we did not do anything about it.

Section 213 of the PATRIOT Act is called sneak-and-peek. The government can go into your house and never tell you they were there. They can look through all of your records. They can steal stuff. They can replace it. They can do all kinds of things and place listening devices—all without ever telling you.

This is in contradiction to what most people have accepted the Fourth

Amendment to be. But if you look at who is being convicted with section 213, 99.5 percent of the people are for drugs, for domestic crime. What we have done is that we have taken a domestic crime and we say the Constitution no longer applies. We basically got rid of the Fourth Amendment for these crimes.

For about 11,000 people a year, the Constitution no longer applies to them. We are using a lower standard. If you want to make this even worse, think about who is being convicted of drug crimes in our country. Three out of four people being convicted of drug crimes in our country are Black or Brown. But if you ask who are the kids who are using drugs, equal numbers of White and Black kids are using drugs. But three out of four people in jail are Black or Brown. Then you find out that not only have we messed up the war on drugs such that it has a racial element to it, but we are now using a lower standard that is not the Constitution, and the end result is a racial outcome.

This is an enormous problem. Related to so much of what is going on in our country, so much of the anger you are seeing in our cities comes from this injustice. You now have people going to jail. You have people going to jail for 15, 20, 30 years.

There is a woman by the name of Mary Martinson from Mason County, IA. Her mother just died recently. They let her out of prison for a couple of hours. Her dad is getting older, and she wishes she had been there to help her parents. She did mess up. She was a drug addict. Her boyfriend was a drug addict. They had guns in the home. They were selling the drugs. He was a meth addict. She was probably going to die if she stayed on the drugs, so it was good that she got off the drugs. She got caught. She got 15 years in prison.

You can kill somebody in Kentucky and be out on parole in 12 years. Yet we put this woman in jail for an addiction. She had never been convicted of any other crime. No judge in their right mind would have ever given her 15 years—nobody would have. The judges basically are telling the defendants and telling the press: I would never do this. This is the wrong thing to do, but I am forced to do this. Compound this with the fact that the war on drugs has had a racial outcome. You put the two together and you say: Well, we are no longer obeying the Constitution, and there is a racial outcome.

Where is the hue and cry?

Where is the President on this issue?

I have talked to the President about criminal justice. I think he sincerely wants to help. But here is the thing. The President could today stop this program. He could stop collecting stuff through the sneak-and-peek. He can say we are no longer going to do the bulk collection. Most of these things originated out of Executive order. He could stop these any time he wanted to. We would stop it. We would say no more spying against Americans and no more use of this information for nonterror criminal cases.

We have another amendment that goes to the heart of what I think should be decided by the Supreme Court. We call this the amendment that would protect the privacy of Americans' records held by third parties. I think that your records do retain a privacy interest. This amendment—should the leadership agree to allow us to have amendments—would establish a clear principle consistent with the Fourth Amendment. As it relates to government collection, an individual's records, if given to a third party for a specific business purpose, are as equally secure in their person as those that remain in their possession, unless the third party informs the individual that it intends to share the information. This amendment affirms that the government cannot circumvent warrant requirements by taking Americans' records from third parties, and it protects the constitutional rights during engagement and regular communication and commerce.

I think we had a vote on this a while back. I do not think we were that successful. I think we got four people to vote—to say that your records should be protected by the Fourth Amendment. Most people do not realize this. Most people have no idea that the government's position, and, currently, maybe the Supreme Court's position, is that you do not have any right—Fourth Amendment right—in your records unless you have them in your house.

I think this is something about which the more people understand and the more people are drawn to this issue, maybe people will demand that we have some justice here. We live in an era where ultimately no one is going to have paper records in their house. All of your records are going to be electronic. Because they are held and they are managed somehow by a third party, does that really mean we have given up our rights? The thing is that the government might say if your cell phone is in your house, then they do. But the cell phone is connected to someplace outside your house. Your email is being served on some server somewhere. I see no way that it could be construed that you have given up your right to privacy because someone else is holding the records for you because that is the way in the digital age we have come to hold records.

We talked a little bit earlier about trust. I think trust is incredibly important. I do not discount that the vast majority of people who work in our intelligence community are honest, trustworthy, and patriotic. I think we all want the same thing. We want to protect our country. We want to protect our loved ones. We want to honor the memory of those who died on 9/11 by capturing and stopping the people who would attack us. But the question is this: Can you catch more or less, or are we more or less effective, in catching terrorists if we use the Constitution, if we use traditional warrants?

I think, without question, if you talk to people, they will tell you that they get a great deal more information and more specific information by using warrants.

Let's say tomorrow we elected a President who eliminated the bulk collection of data. Let's just say it happened. What do you think would happen? People say: Oh, the sky would fall. We would be overrun with jihadists. Maybe we could rule on the Constitution. Maybe we could get warrants. The information is out there. There are warrants. If you make the warrants specific, there is no limit to what you cannot get through a warrant. The warrants are given the vast majority of the time.

People complain and say it would take too long; it would be inconvenient. Make it better then. Put your judges on 24 hours a day. Appoint 24 more judges. Put them on call all the time, and let's do this. There is no reason why you cannot have security and liberty at the same time.

Another amendment we have—should the leadership agree to allow us to have amendments and to have votes and to have a debate on this—is an amendment that would require the court to approve national security letters. In a 3-year period between 2003 and 2006, 140,000 national security letters were given out. National security letters are warrants that are below the constitutional bar. They do not meet the constitutional bar because they are not being signed by a judge. They are being signed by the police. You got rid of one of the great protections we had, which was the check and balance that the police would always go to the judiciary. It was a different branch.

The judge is sitting at home, hopefully reading it in a reasoned fashion. The judge is not in hot pursuit. The judge is not letting their emotions—the judge was not just punched by one of the convicts. The judge is sitting at home in a reasoned fashion trying to make a reasonable decision. But still, the vast majority of the time warrants are given.

If there is a policeman outside the house of an alleged rapist, and they want to go in, they call on a cell phone. The judge almost always says yes. It is the same for murder.

Does anybody imagine that there would be a judge in our country and that you call and say: John Doe—we have evidence that he traveled to Yemen last year. We have evidence that he talked to Joe Smith, and we have evidence that he is a terrorist, and we want a warrant to tap his phone.

Look, I am the biggest privacy advocate in the world. I will sign the warrant immediately. I do not know of anybody that will not sign warrants to allow searches to occur. But you have the check and balance so it does not get out of control. What happened and what is happening now is we let down our guard. We have no checks and balances. So what does the government do

when you are not watching? If you look away, the government will abuse their power. Lord Acton said: ''Power corrupts, and absolute power corrupts absolutely.'' The corollary to that would be: When you are not watching, power grows exponentially.

They will do whatever they can get away with. They will do it in the name of patriotism. Actually, I do not even question their motives. They believe themselves to be patriotic, but they think we have to do anything it takes—no matter whether it contravenes the Constitution or contravenes the Bill of Rights. The people who do this—their motives are good, but they are confused in a sense, and they do not fully comprehend what we are giving up in the process.

This amendment would require judges to sign national security letters. It would make them more like warrants. In practice, national security letters have become warrants written by law enforcement without prior court review and approval, granting them almost unfettered access to individual email and phone communication data, as well as consumer information such as bank and credit records.

Those subjected to the national security letters must also obey a gag order. Not only does the Government come to you with a less than constitutional permit or a less than constitutional warrant, but they then tell you that you cannot talk about it. You may go to jail for 5 years if you tell somebody you had a warrant served on you.

This amendment would require that a government obtain approvals from a court prior to issuing an NSL to a private entity, thus forcing them to demonstrate a clear need for information as part of an investigation.

Amendment 6 would create a new channel for legal appeals for those subjected to government surveillance orders. This amendment would empower individuals or companies, ordered by the government to hand over information about users or customers, to make constitutional challenges that would be in order in the U.S. court of appeals.

My understanding right now is that it is very difficult to appeal a FISA order. They are secret. You are not allowed to be in the court, so you are not allowed to participate in the process. I think, also, you can get outside of FISA by appealing, but I think you have to ask for something that is called a writ of certiorari. It is a special condition, and it is not so automatic. My understanding is that the court will grant these things, but they do not occur very often. They are an extraordinary thing.

We would like to make it a little bit more of a facility of getting to a normal appeal—the way a normal appeal would occur. We have been pushing to allow that there would be more of an automatic sort of appeal here.

One of the other amendments would say there is no liability immunity for companies that break their agreements with users. Like I said, while I am not in favor of lawsuits and I do not like the idea of frivolous lawsuits, I think if you do not protect the contract and if you have a privacy agreement that says they are not going to share your information with anybody, the only way they will protect it is if there is the threat that they could be sued for not protecting it. I think the contracts become not worth the paper or the click ''I agree to this'' and become completely worthless if the companies are told they can go around it. The companies have all specifically requested this because I think they fear that every day the government is requesting them to breach the privacy contract. So in order to enable the privacy contract, I think we have to get to a point where people can sue if their privacy is violated.

I think there can be a mixture of opinions on what Snowden did. I think we have to have secrecy and there has to be laws against revealing secrets, so I can't say we should have everybody revealing secrets. At the same time, I think the law says that those who are reporting to Congress should tell the truth.

So we have the intelligence director lying to us and saying the program doesn't exist, and then we have someone committing civil disobedience. When you commit civil disobedience, it isn't that we change the law and say it is OK. What we do is say: You broke the law, and maybe you did it for a higher purpose, but it doesn't mean we will get rid of all punishment for things like this. I think there is one way we can modify it.

Snowden was a contractor, and we don't have very good rules for whistleblowers who are contractors. I would extend the whistleblower statute to people who want to come in and want to tell an authority, an investigator general or somebody, if they want to reveal that they think something is being done illegally.

For example, if Snowden knew that Clapper was lying, a felony has been committed. I would think that somebody who has evidence of a felony and tells the investigator general, ''Look, I have seen this, and I have seen that they are collecting all the records of every American,'' and he says they are not, then he has committed perjury and a felony, and there ought to be some sort of whistleblower statute for that. What we do in one of our amendments is to allow whistleblowers to be contractors as well.

One of the things that has been going on—even predating the PATRIOT Act and goes back to probably the 1980s and 1990s—is something called suspicious activity reports. These are now being done, I believe, by the millions. At one point I looked at it, and 5 million of these had been filed. Every year, hundreds of thousands of these are being filed, and if the banks don't file them, the banks could have their licenses taken from them or there could be $100,000 fines issued to banks.

What we would like to do is to make a suspicious activity report based on suspicion, not just based on a transaction. It would make it more like a warrant where a judge would actually review it and see if there is suspicion to be reporting this activity instead of just reporting activity based on the way people do their transactions.

The problem has been that we now have the IRS confiscating your money, your bank account, based on the way you do your transactions. It is not based on a conviction; it is based on, I guess, the presumption that you are guilty until you can prove yourself innocent. This is also going on with civil asset forfeiture. It is intertwined with records, and as we allow the government to collect our records in an unconstitutional manner, we have to be very careful that then those records are then being used with the presumption of guilt, not innocence.

I have a great deal of questions about Executive Order 12333. John Napier Tye was with the State Department and oversaw some of the freedom of the Internet and government surveillance, and he put out an op-ed that shows a significant concern as far as whether this Executive order may be as big as bulk collection.

I spoke with one of the founders of one of America's larger Internet companies recently, and he told me that not only is he worried about bulk collection, but he is worried that bulk collection might be smaller—the collection of all the phone data might be smaller than the backdoor collection through 702 and the backdoor collection through the government forcing companies to allow them into their software.

Our concern is that we need to look more at the Executive order. I think it is being done in secret, but once again, an evaluation as to whether a law is constitutional or whether a law overstates its purpose should be done in the open.

I see the Senator from Montana, and I will be happy to entertain a question without losing the floor.

Mr. DAINES. Will the Senator from Kentucky yield for a question without losing his right to the floor?

Mr. PAUL. Mr. President, I will yield to the Senator from Montana.

Mr. DAINES. I thank my colleague for raising this important issue on the Senate floor today. It wasn't all that long ago that I served as a House Member. I served one term in the House and then came over to the Senate this year. I came over to the Senate floor, and I stood in support of my colleague's efforts to protect the American civil liberties and ensure drones are not being used to target American citizens on our own soil.

In fact, I am grateful to see that in the Senate Chamber today, we have five House Members who are here standing with the Senator from Kentucky as he makes his very important point which relates to our Constitution and our freedom.

Well, 2 years later, we are here again, and the threats to America's civil liberties and constitutional freedoms remain ever present.

As my colleague from Kentucky is well aware, I spent more than 12 years in the technology sector before being elected to Congress. I know firsthand the power that Big Data holds. I also know the great risks that arise when that power is abused.

There is a clear and direct threat to Americans' civil liberties that comes from the mass collection of our personal information in our phone records. I, like so many Montanans, am deeply concerned about the NSA's bulk metadata collection program and its impact on our constitutional rights. In fact, just last night, I hosted a telephone townhall meeting with thousands of Montanans, and one of the issues I heard most about was the NSA's bulk data collection program and when is Congress finally going to put a stop to it. In fact, this is one of the issues I hear most about from my fellow Montanans.

I brought down just a few of the thousands of letters I received from Montanans on the NSA's dangerous bulk metadata program. For example, I have a letter from Adam, who lives in Missoula. Adam writes:

I'm writing to ask you to allow Section 215 of the PATRIOT Act to expire on June 1st of this year. While it is only one provision of the larger problem...it would at least begin to curtail the surveillance of Americans.

As Americans we should be free to communicate without the threat of the government monitoring those communications. Wanting to keep your life private does not mean you have something to hide—only that your life isn't any of the government's business as long as you are not infringing on the liberty of others.

At the end of the day, giving up our liberties because of the threat of terrorism truly is the definition of terrorism winning. To be free inherently means a person also incurs risks.

Even though he was speaking about taxes, I believe Benjamin Franklin would agree: ''Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety.''

Jes from my hometown of Bozeman, MT, wrote:

I am writing to you as your constituent.

NSA spying needs a comprehensive overhaul. But in the meantime, I urge you to show that you care about the Constitution by voting against reauthorization of Section 215 of the USA PATRIOT Act. Section 215 has been used to invade the privacy of millions of people.

Although some in Congress and the NSA have argued that collecting call detail records (''metadata'') is not privacy invasion, the information collected by the government is not just metadata—it paints an intimate portrait of the lives of millions of Americans.

What's more, the collection of call detail records isn't even necessary to keep us safe.

The President, the Privacy and Civil Liberties Oversight Board and the President's Review Group have all admitted that collection of call detail records is not necessary.

PCLOB [Privacy and Civil Liberties Oversight Board] went so far as to note that it could not identify a single time in which bulk collection under Section 215 made a concrete difference in the outcome of a counterterrorism investigation.

That's why I urge you to support reform by committing to a no vote on reauthorization of Section 215.

A vote against reauthorization is a vote for the Constitution. Thank you for opposing unconstitutional surveillance and for supporting a free and secure Internet.

Montanans are right to be concerned. This program is a direct threat to our constitutional rights. It has jeopardized our civil liberties with little proven effectiveness, and I am the son of a U.S. marine.

Several weeks ago, I was with Leader MCCONNELL and other Senators. When we went to Israel, we met with Prime Minister Netanyahu. When we went to Jordan, we met with King Abdallah. When we went to Iraq, we met with Prime Minister al-Abadi. When we were both in Baghdad, we went up to Erbil and met with the leaders of the Kurds, including Mr. Barzani. We then went to Afghanistan. We were in Kabul, and we were in Jalalabad. We met with President Ghani. We heard directly from the leaders in the Middle East, we heard directly from our U.S. military, and we heard directly from U.S. intelligence about what is going on in the Middle East.

As the father of four and someone who strongly believes in a strong national defense and the importance of protecting our homeland, I weigh these issues very deeply. These are heavy issues we must look at as we want to ensure we protect the homeland and, just as important, protect the Constitution and the constitutional rights of the American people.

As my colleague is likely aware, a 2014 report from the Privacy and Civil Liberties Oversight Board, which is a nonpartisan, independent privacy board, found that the NSA's bulk data collection program said that it ''contributed only minimal value when combating terrorism beyond what the government already achieves through . . . other alternative means.''

Like the New York-based Second Circuit U.S. Court of Appeals recently unanimously confirmed, this oversight board found that section 215 of the PATRIOT Act does not provide authority for the NSA's bulk metadata collection program. In fact, the report states:

Under the Section 215 bulk telephone records collection program, the NSA acquires a massive number of calling records from telephone companies each day, potentially including the records of every call made across the nation. Yet Section 215 does not authorize the NSA to acquire anything at all.

It is illegal, it is an overreach of power, and it is a direct threat to our First and Fourth Amendment rights.

In fact, the report goes on to conclude:

The program lacks a viable legal foundation under Section 215, implicates constitutional concerns under the First and Fourth Amendments, raises serious threats to privacy and civil liberties as a policy matter, and has shown only limited value. For these reasons, the government should end the program.

I stand here today with the people of Montana. I stand here today with my colleague from Kentucky. I stand here today with five Members of the U.S. House who are seated in the back of the Senate Chamber: Congressman DUNCAN of South Carolina, Congressman BLUM of Iowa, Congressman MASSIE of Kentucky, Congressman LABRADOR of Idaho, and Congressman AMASH of Michigan.

I think it is important that the Senate recognize what the people's House did last week when they passed the USA FREEDOM Act. That vote was 338 to 88. To suggest that this is just a small minority of Congress men and women who support the USA FREEDOM Act—this is the chairman of the Judiciary Committee, the chairman of the Intelligence Committee, the chairman of the Armed Services Committee, and the chairman of the Homeland Security and Governmental Affairs Committee, amongst many others, who want to make sure we strike the right balance between protecting the homeland and protecting our civil liberties.

The people of Montana, my colleague from Kentucky, the five Members from Congress who are here at this moment, and millions of Americans know I strongly agree with their view on the USA FREEDOM Act.

Like all Americans, I understand the great risks that face our national security. The threats from ISIS, the threats from North Korea, and the threats from Iran grow stronger each and every day. We must be prepared. We must ensure our intelligence and law enforcement agencies have the tools they need to protect and defend our Nation. But these objectives—national security and protection of our civil liberties—are not mutually exclusive. We can and we must achieve both. We must maintain a balance between protecting our Nation's security while also maintaining our civil liberties and our constitutional rights.

All of us standing here today took an oath to protect and defend the Constitution. I took that oath just a few steps away from where I am speaking here today, between myself and the Presiding Officer's chair, occupied at the moment by the Senator from Utah, Mr. LEE.

As all of us here today know, the fight to protect our Constitution and America's civil liberties is far from over. We must remain vigilant and we must also ensure that we have robust and transparent debate about these programs and what reforms must be implemented to protect America's civil liberties. That is why I support the USA FREEDOM Act, which would end the NSA's bulk metadata collection program and why I strongly believe that Congress must engage in an open amendment process. The American people must have their voices heard, and an open amendment process will help ensure that happens.

In light of all we have learned about the NSA's unlawful bulk data collection program, it is clear that reforms must happen. It is critical that Americans' rights are protected against the overreach of their own government.

So I ask the Senator from Kentucky, would he agree that the indiscriminate government collection of Americans' phone records violates the Constitution and, according to two independent commissions, has not proven critical to our national security?

(Mr. TILLIS assumed the Chair.)

Mr. PAUL. I wish to thank the Senator from Montana for that excellent synopsis of the issues as well as for the great question.

I think the reports by the review committee and the privacy committee, both commissioned by the President, both nonpartisan, are incredibly powerful because not only did they look at the constitutional issue of whether this is a bulk or a general warrant versus an individual warrant, they also saw practically that it wasn't working, it wasn't adding anything to our intelligence. So I think we have sort of a dual reason now to say this is a big problem.

One, there are constitutional questions, which I think are very clear, but then the second practical question is that when we examine the evidence—and the privacy commission actually looked at classified evidence; they looked to see whether it was adding anything to this—I am thoroughly convinced that we can catch terrorists with traditional constitutional warrants.

When I have talked to former high-ranking heads of our security agencies, they freely admit they get more information with a warrant. It is a little more work. It has to be more specific. But I am also a believer in that because we have generalized what we are looking for and it is indiscriminate, that maybe we are missing people because we are overwhelmed with data. We are overwhelmed with things at the airports. I would much prefer that we have less indiscriminate searches at the airports and be more specific in looking at the manifests of who is flying and trying to find out who are the risks.

So I do think that, without question, this is not a constitutional program. It is not even legal under the PATRIOT Act. The courts have said it isn't, and we should do everything we can to stop it.

I appreciate the support of the Senator from Montana.

One of the things about this issue is that it really is a bipartisan issue. It is an issue where there are people who feel strongly on both sides of the aisle. The Senator from Oregon was here earlier and the Senator from New Mexico, and I now see the Senator from West Virginia, who is also a loud and consistent voice on this.

Does the Senator from West Virginia have a question?

Mr. MANCHIN. Mr. President, will the Senator from Kentucky yield?

Mr. PAUL. I will, without yielding the floor.

Mr. MANCHIN. I know the Senator from Kentucky agrees with me that the defense of our country and the protection of our civil liberties should be bipartisan and above politics. I know he agrees that we can and must protect our citizens without violating their civil liberties. Again, I don't always agree with my good friend from Kentucky on every issue, but when it comes to this Nation's intelligence gathering and security, we agree more than we don't.

As was he, I was deeply troubled by the revelation that our country was engaged in bulk collection—I think we all were surprised—and that millions of private citizens' data was gathered unknowingly and unjustifiably.

In 2013, Edward Snowden revealed to the American public that NSA was engaging in ''bulk data collection,'' in sweeping up virtually every cell phone record of an enormous number of Americans, again for no reason. The U.S. spying program did this by systematically and indiscriminately collecting millions—I mean millions—of Americans' phone records by simply digging up every phone record that came into its net even if it wasn't remotely related to a broad, general search. These are not searches that were relevant to a particular threat or an individual group; it was just a huge database of documenting what millions of law-abiding citizens were doing.

That is not what this country was based on, and I think the Senator from Kentucky has made that very clear. I know the Senator from Kentucky believes this was wrong, as I do. That is not just our opinion; national security experts, legal experts, the American public, and even several courts have said that the bulk collection of data is not only unconstitutional but also unnecessary to our national security. And my friend from Kentucky has confirmed that the President's review group has said that bulk data collection is not essential to preventing attacks and that the program has not made a difference in a single instance.

The bill the Senate will soon be considering—the USA FREEDOM Act of 2015—will ensure that we restore important privacy protections for Americans.

The United States will always face security threats—I think we all know that—and we will for generations to come. That is just a reality. On that horrible day of September 11, 2001, we as a country were reminded of this fact and realized we must meet those threats with strong law enforcement and strong intelligence. However, we must also balance that necessity with our constitutional rights.

The NSA bulk data collection program clearly did not strike that balance, and the District Court of DC and the Court of Appeals of the Second Circuit of the United States struck it down. The courts have made clear that this program is not legal, and I understand the frustration of Senator PAUL and Senator WYDEN with any suggestion that it be continued.

I believe this bill, USA FREEDOM 2015, moves us in a positive direction. It ends the bulk data collection program and ensures that the collection of data is related to a relevant, particular terrorist investigation. At the same time, it still protects this country.

The USA FREEDOM Act of 2015 replaces indiscriminate bulk collection and allows the government to collect call detail records on a daily basis if it can demonstrate to the FISA Court a reasonable, articulable suspicion that its search term is associated with a foreign terrorist organization.

The bill provides greater transparency about surveillance activities. It contains significant new government reporting requirements for FISA authorities to ensure its activities do not again break the law. It gives private companies increased options for reporting to the public information about the number of FISA orders and national security letters they receive. The bill requires declassification of FISA Court opinions containing significant legal interpretations. The bill requires the FISA Court to designate a panel to appoint individuals to advise in particular cases involving new or difficult legal issues. It expands the opportunity for the appellate review of FISA Court decisions. The bill strengthens the judicial review process for gag orders, imposes new privacy protections for FISA pen registers, and limits the use of unlawfully obtained information.

The bill also contains many provisions to protect our Nation's security. It creates a new emergency authority to allow the government to obtain business records, including call detail records, without advance court authorization if an emergency requires those records. It also adds a short-term emergency authority for continued transnational surveillance of foreign terrorists or spies who come into the United States before emergency authorization can be obtained from the Attorney General. It permits ongoing FISA surveillance of an agent of a foreign power who temporarily leaves the United States. It clarifies that individuals can be subject to FISA surveillance if they are knowingly aiding, abetting, or conspiring with respect to the proliferation of WMD on behalf of a foreign power.

Finally, the bill increases the statutory maximum penalty for material support of terrorism from 15 to 20 years.

I know the Senator from Kentucky does not think it goes far enough in protecting our privacy rights, but perhaps my good friend can remind us again of what provisions he would like to see changed or strengthened in the bill to satisfy his interests and the interests of Senator WYDEN and other people.

I yield the floor back to the Senator from Kentucky to hear basically his concerns and how we can have some protections, and do we have any rights whatsoever to gather information when it is proven? I have heard the Senator from Kentucky say that if he thought we could prove it, there was a different concern we had and we could get the FISA Court involved and basically move forward from there.

I thought this bill moved us in a positive direction—the new bill before the Senate that we are about to consider. I would appreciate it if the Senator from Kentucky could explain to me his concerns about that and what we need to do.

Mr. PAUL. Let me make sure I have the question correct. The Senator's question is on my concerns on the USA FREEDOM Act?

Mr. MANCHIN. USA FREEDOM 2015.

Mr. PAUL. I want to like it because it ends bulk collection, and I am all for ending bulk collection. So we all agree—the people for it agree with the problem; it is a question of the solution.

It says there have to be specific selector terms on U.S. persons. Part of my problem is that ''persons'' is still defined as corporations. My concern is that you could put the word ''Verizon'' in there, and the government wouldn't be collecting the records, but you still could get all records from Verizon. Does the Senator see what I mean? That is one of my concerns with the way it has been written.

My other general concern is that we would still be having bulk collection. It wouldn't be bulk collection by the government, but it would still be bulk collection but through the phone companies.

I don't like the liability protection because I think it makes it more likely than not that the privacy agreement won't be as respected if they cannot be sued for violating the privacy agreement.

Those are a couple of concerns. I don't know if they are insurmountable, but those are a couple of concerns.

Mr. MANCHIN. I think we both agree and most of the people in this body agree that the bulk collection is wrong. It has been proven to be illegal, it shouldn't have been done, and it should be stopped. I think we all agree on that.

I think we still face considerable threats from around the world on a daily basis, if not even greater than that. We are looking to try to find a balance, and I think the Senator from Kentucky is valuable in helping us find that balance. That is what we are looking for. I know our colleague, Senator LEE from Utah, has made a gallant effort in trying to find that balance and making sure that we don't overstep.

The private companies are collecting. They already have that information anyway. It is not just sweeping from NSA, as they had been doing. Basically, I am understanding by this bill, the USA FREEDOM Act of 2015, that basically we would have to demonstrate to the FISA Court reasonable, articulate suspicion that its search term is associated with a foreign terrorist organization. They can't even go into those records until that is shown. That is the way I understood it. I am not sure if there is something I am missing.

Mr. PAUL. I guess the question I have is that we have some of those restrictions now, but they seem to think that those restrictions don't apply—the people interpreting what we have now are interpreting 215 to mean we can collect all of the American records in bulk.

If there were a circumstance where I was necessary to pass USA FREEDOM and if it were that close, if people were willing to look at the bill and say we would make a person, an individual—see, the big thing for me is that the warrant should be individualized. And I am worried that if we use the word ''person'' and if it can be replaced with the word ''Verizon'' and we still collect all the records, I would feel disappointed if we thought we got rid of bulk collection and a year or 2 from now, when they finally admit it, they admit: Oh, we are still doing the very same thing. We are doing Verizon. We are getting all of Verizon's records. We are just making them process it, and we are paying them for it.

That is what I fear. I want to make sure that doesn't happen.

Mr. MANCHIN. I guess we are caught in that Citizens United decision, it sounds like.

Mr. PAUL. In a different way, we are talking about whether in the intelligence selector numbers a person is a corporation and whether can have a single warrant.

I think if you want phone records from Verizon, it should say ''Verizon'' and we want the records of John Doe. It shouldn't just say that we want all the records from Verizon. That is a general warrant. I am still fearful that the USA FREEDOM Act might not limit that.

Mr. MANCHIN. If the FREEDOM Act goes away and the way they are doing bulk collection, which we agree should be done away with—and we don't come to some agreement—are you concerned that we might be in more jeopardy by not having something in place where we are able to get the necessary intelligence we need?

Mr. PAUL. I guess that is also where I probably differ. I think we are just as safe or safer with nothing, because the Constitution allows the searching of records. And I am all for it, but I would do it through warrants.

The point is that in metadata, one can do a hop or two with these less-than-constitutional warrants or whatever. But with a real warrant, we can go 100 hops into the data. I really would chase the rabbit down the hole. I would look very hard with suspicion, and I think warrants are generally easy to get. This is the point I don't get about why we have to have warrants with a lower constitutional standard, because I think the FISA warrants are almost never turned down, but neither are criminal warrants. If you are a policeman standing in front of a house, you almost never get a no. But if you are a policeman saying, I want to search all my neighbors' houses, then the judge is going to say no, and that is a good thing. So I think traditional warrants—I think people have somehow just convinced themselves that we can't catch terrorists with traditional warrants, but I think you can go through a lot of data with traditional warrants, too.

Mr. MANCHIN. Your sincere belief is that if this sunsets, this bulk collection in the way the PATRIOT Act has been enforced before—if it sunsets and it goes away, which we agree that we are trying to replace that before the sunset—you believe the system we have had in place before the PATRIOT Act of 2001 gives us still the ability to keep the homeland safe, using the court system, as you say, following the rabbit down the hole using the court system? Because we know we have rapid fire coming at us from different directions and people trying to come into this country and do harm. Social media has blown up even since 2001, so we are much more vulnerable from that standpoint.

What I am hearing you say also is that you are not really objectionable if you can find the right language—if you thought you could get protection of that individual without the interpretation of the entire broadness of the corporations.

Mr. PAUL. I think that also and within the context of—we have six or seven amendments that we would like to offer. I can't guarantee that we could win any of them, but there is a chance maybe we could win another reform.

So for example, one of the reforms that some people think may be as important as all the bulk collection is the ability of the government to tell an Internet provider that they have to create a backdoor to their product for the government to go through—and some of the backdoor stuff through 702.

We think there are some other things that may well be as big as this. I also think there is the ability of the government to not only use traditional warrants. They have some they are using under Executive order, as well, and we still have a host of other types of warrants and subpoenas being used. But I would never be for this in a heartbeat if I thought it was going to put the country in danger. I think we will be safer because of it and so will our liberty.

Mr. MANCHIN. It is a good point in the bill that we will be considering, the 2015 FREEDOM Act. It expands the opportunity for the appellate review of the FISA Court decisions, which I think the Senator has had a problem

with, too, because it has been handed out, uncontested. Is that correct?

Mr. PAUL. Say that again, please.

Mr. MANCHIN. The bill that we will be considering is expanding the opportunity for the appellate review of the FISA Court decisions. I think and I can understand that you are saying they can get a FISA order no matter what.

Mr. PAUL. I am not sure I understand the question, but I do believe as to the court case right now, the way it stands—if the USA FREEDOM Act had passed last year, I think there was a chance that it might have made the court case moot because it would have said that Congress has already acted and Congress now has given an authority for a variation of this and Congress already fixed the problem. So there is a part of me that would like to see the appellate court case go up to the Supreme Court. It has been remanded to a lower court so I don't know if it is ever getting there. But we ultimately have some questions in our country that won't be decided until we have a Supreme Court case.

One of those questions is, Do papers have to be physical and in your house? What if they are digital and lodged somewhere else? Do you have any right of privacy, any Fourth Amendment protection at all for records that are held somewhere else? The current legal opinion doesn't really give any protection to third-party records. I think that needs to be fixed, because technology has made it such that our records are no longer going to be real records that you can hold in your hand. I think almost all of our records will be virtual and held in space somewhere, and I think you still have to have a personal privacy protection in those.

Mr. MANCHIN. So the bill that we have proposed before us, it is going to require declassification of FISA Court opinions containing significant legal interpretation, which is a positive thing.

Mr. PAUL. There is a lot that I like in the bill. It is just a matter of whether or not I can be convinced that it doesn't allow bulk collection under another name. I am still worried about that. But I am open to it.

Some of these things—this is a very important bill. I mean, we could have a week of discussion on this bill, and amendments and a process. The only reason we are getting a little bit of this is because I am kind of forcing the issue, but I would like to see the amendments voted on. All the other stuff we are doing around here is important but has no deadline. We could have done it next week or 2 weeks from now—all the stuff we are doing right now.

But anyway, that is what I am going to be asking for—the ability to present five or six amendments, vote on them, and then we will see. And I am more than willing to talk with the authors of the USA FREEDOM Act to see if there is a way, but it is going to have to involve some give and take to figure it out.

Mr. MANCHIN. It sounds like we are not that far apart. I think we are all going down the same path, trying to keep the homeland as secure as possible while protecting the rights of all Americans. I appreciate that. I hope that we do. These are important issues. It is a dangerous world that we live in. It is a threatened world that our children are being raised in. We want to do everything we can to protect them, and I know you do, too.

With that, I think we all came to an agreement that what was done before was wrong. So we all come unanimously to that agreement, and finding a pathway forward is what we are working on now. So I appreciate your sincerity and your intent to try and reach out and find that. I hope you can find that comfort level so we can move forward and still have a protected country.

Thank you.

Mr. PAUL. I thank the Senator from West Virginia. I think he has made some really good points. I think a lot of us have come to the agreement that there is a problem with bulk collection. I don't think we have everybody, but I think we have a significant number. The court agrees with us. So I think we are getting closer.

One of the groups that we have talked about in looking at where we are, whether this is a constitutional or legal program—is it is pretty intriguing to look at the report that comes from the Privacy and Civil Liberties Oversight Board. This is a bipartisan board. It is a board that was put in place, and I think the appointees are bipartisan appointees.

When they met, they came to the conclusion, though, that the bulk collection of records is not warranted and not given sanction by the PATRIOT Act. They had four different reasons why they say that the telephone records program—the bulk collection of our records—does not comply even with the PATRIOT Act. The first reason they say is that there is no connection to any specific FBI investigation at the time of the collection. So, basically, when they collect your phone records, they are not even alleging that they are related to any investigation. But that is what the statute says. They are supposed to be relevant to an investigation, but there is no evidence and nothing is even presented that there is any investigation even going on. The investigation actually starts after they have collected all of your records.

So how can section 215 say that you can collect these records because they are relevant to an investigation that has not yet even begun? They use this big data case later on when they say there is going to be an investigation. So I think their No. 1 reason is pretty strong. There can't be a connection or relevancy because there really is no investigation when they collect your records.

The second reason of the privacy commission was that the records are collected in bulk, potentially encompassing all telephone calling records across the Nation. They cannot be regarded as relevant to any investigation without redefining the word ''relevant'' in a manner that is circular. Relevant sort of means that there is some sort of criteria that means that there is some pertinence, that there is something about the records or something about the investigation.

For example, if there is someone in the northwest section of Washington, DC, and we saw something happen there. We are saying we want to look at the records there. Even though it might be bulk collection, it would be at least relevant to some sort of investigation. There would be some pertinent factor. But they are just collecting everybody's records. It is completely without any relevancy. And I love the way they put it—that this would not be relevant unless we redefine the word relevant in a manner that is circular, unlimited in scope, and out of step with case law from analogous legal context involving production of records.

The third reason why the privacy board said that this program is not legal is that it operates by putting telephone companies under an obligation to furnish new calling records on a daily basis as they are generated, instead of turning over records they already have in their possession. This is an approach lacking foundation in the statute and one that is inconsistent with FISA as a whole.

The final reason they say that this program is illegal—this is the President's own privacy commission—is that the statute permits only the FBI to obtain items for use in the investigation. It does not authorize the NSA to do anything. So section 215 of the PATRIOT Act is what they are saying they are using as justification. It allows the FBI to collect records. It doesn't allow the NSA at all. So they are using a statute that was intended for the FBI to say the NSA can do this. So I think the reasons are pretty clear—four specific reasons why the PATRIOT Act does not justify the collection of these records.

The next thing the policy committee looked at was they looked at and they tried to decide whether there has been any practical effect. I know Senator LEAHY was a part of this, looking at whether any of these things actually did catch terrorists. But this is what they concluded, and they actually looked at the classified data. So the Privacy and Civil Liberties Oversight Board looked at the data, looked at the classified data, and this is their conclusion:

> However, we conclude that the Section 215 program, the bulk collection, has shown minimal value in safeguarding the nation from terrorism. . . . we have not identified a single instance involving a threat to the United States in which the [bulk collection] program made a concrete difference in the outcome of a counterterrorism investigation.

Those are pretty strong words. The Policy and Civil Liberties Oversight Board commissioned by the President, which is bipartisan, looked at the classified data and said it didn't find a single incident—not one incident—in which it made a concrete difference in the outcome of a counterterrorism investigation.

Moreover, we are aware of no instance in which the program directly contributed to the discovery of a previously unknown terrorist. . . .

What does this mean? We are not pushing a button and generating terrorists out of this. The terrorists are coming from real information. You have to realize that this misinformation and this wrong-headed information has been used forever—for 15 years—to justify the fact that we should give up on the Fourth Amendment and we should give up on protections.

Over and over people say that if we only had the PATRIOT Act, we wouldn't have had 9/11. The two terrorists they claim we would have gotten were in San Diego. We already knew about them. An informant lived with them for a year. The FBI wasn't talking to the CIA, they weren't looking at lists, and they didn't know they would come back. The CIA didn't know. It had nothing to do with having bulk collection of our records. We knew about these people. It was crummy work. It was people not doing their job.

I repeat: No one was ever fired. We gave rewards. We gave medals of honor to everybody in the intelligence community and no one was ever fired. There were some true heroes—the FBI agent in Arizona and the FBI agent in Minnesota who actually discovered potential hijackers. The 20th hijacker was captured before 9/11. The 20th hijacker was captured a month before 9/11. That is the person who should have gotten the Medal of Honor. The person who would not listen to him should have been fired. I have no understanding or awareness that anybody was ever fired over 9/11.

The Policy and Civil Liberties Board goes on to say that our review suggests that section 215 of the PATRIOT Act, the bulk collection of records, offers little unique value. They explore a little bit of whether there is a privacy problem with collecting all of these records and what are the implications of collecting all of these records. The government's collection of a person's entire telephone call history has a significant and detrimental effect on an individual's privacy.

Beyond such individual privacy intrusions, permitting the government to routinely collect calling records of the entire Nation fundamentally shifts the balance of power between the State and its citizens. With its power of compulsion and criminal prosecution, the government possesses unique threats to privacy when it collects data on its own citizens.

Compound this with the fact that the government—you could say: Well, they are just collecting this data at a lower standard, but if you are not a terrorist you do not have to worry. But here is the problem. They are collecting this data with the lower standard, a less-than-constitutional standard, but then they are also prosecuting you for domestic crime.

Section 215 of the PATRIOT Act is being used 99.5 percent of the time for domestic crime. We are putting drug dealers in jail. That is another question and another story. But then we should vote on it as a country. OK. For drug dealers, we are not going to have the Constitution anymore, we are going to have the PATRIOT Act for drug dealers. Let's be honest about it. The war on drugs has had a disparate impact, a disproportionate impact on people of color. So you have to admit to all the young Black men and all the young Brown men you put in prison that we are no longer using the Constitution to stick you in prison, we are using the PATRIOT Act to put you in prison.

We need to be honest with people. If the PATRIOT Act is about terrorism, they should adopt my amendment that says you cannot be put in jail for a domestic crime under the PATRIOT Act. Why? Because the PATRIOT Act has dumbed down and loosened the standards. We do not have probable cause, we have relevance. Realize that relevance, as they say in the Commission, has become completely circular and devoid of meaning, if you are saying that all the records in the country are somehow relevant to an investigation that has not yet begun.

They make a great point here about the fact that not only does this stifle or invade your privacy, it may well stifle your speech and your association. If you are going to be associating with minority causes, unpopular causes, whether you are a kid from the North who went down to be in favor of civil rights, whether you are someone who belongs to the NAACP or the ACLU, they say: Yet, even though there is no evidence of abuse—

And this is the big argument. Everyone says: Well, there has never been any abuse, so it is fine to keep doing this.

Yet, while the danger of abuse may seem remote, given historical abuse of personal information by the government during the 20th century, the risk is more than theoretical.

I could not agree more. Moreover, the bulk collection of telephone records can be expected to have a chilling effect on the free exercise of speech and association because individuals and groups engaged in sensitive or controversial work have less reason to trust in the confidentiality of their relationships as revealed by their calling patterns.

Realize that they are taking your phone records, your calling lists, your buddy lists, your ISP address, your email. They are integrating this into some network where they can pull your name up and find out who are all your buddies, who are all your friends, who are all your Facebook friends.

Realize the potential danger of having so much information, so much of a dossier on every American citizen, even if they are not using it. But when you think that, well, this is fine because we are not doing it and good people are running these agencies, realize that the head of the Agency lied to us about this program at all. He said it did not exist. So when you get to be trusting these people to protect your individual information, realize that the most—at the very top of the intelligence community, the most famous person in our country dealing with intelligence lied to a congressional committee and said that this program did not even exist.

The report goes on to say that the inability to expect privacy, vis-a-vis the government and one's telephone communications, means that people engaged in wholly lawful activities, but who for reasons justifiably do not wish the government to know about their communications, must either forgo such activities, reduce their frequency or take costly measures to hide them from the government surveillance.

The telephone records program thus hinders the ability of advocacy organizations to communicate confidentially with members, donors, legislators, whistleblowers, members of the public.

Initially, in the 1970s when we set up the surveillance court, the security court, the FISA Court, they were done with individualized warrants. They got information through individualized warrants.

Beginning in 2004, though, the role of the security court changed when the government approached the court with its first request to approve a program involving what is now referred to as bulk collection. For the first several years, we did bulk collection—they just did it. They just said it was under the inherent authorities of the President. This should scare us because there are people who believe that the inherent authorities of the President are unlimited. That would not be a President. There would be another name for that.

But if there are no limits to what the President can do, there is another name for it and it is not President. The Commission goes on to say that the judge's decision—their decisionmaking would be clearly enhanced if they could hear opposing views. So the privacy commission advocates exactly what I am advocating for, that you should have a lawyer in there with you and that there should be an adversarial type of procedure.

Because the thing is, is that it is like any other dispute. If you have ever heard two people arguing, figuring out the truth is listening to both sides and trying to gather what the truth is. So I think that we get to the truth a lot more if we had someone asking questions. Realize also that section 215 of the PATRIOT Act says that the information has to be relevant to an investigation.

Without having someone in there to argue your case, the court appears to have not really had a great deal of discussion or, to my mind, thought about whether bulk collection is somehow relevant. You might argue that if there were opposing sides, as in a traditional court, that maybe someone would stand up and say to the judge: How can this be relevant? What investigation is it relevant to?

See, I think the FISA Court became such a rubberstamp that you were not even having these questions asked because how could you ask that question. If you are an advocate for someone who does not want to give up their information, how could you ask the question whether it is relevant to an investigation, and then the government would say: Well, we are going to do it. It will be relevant when we do an investigation.

No court, you would think, would understand or accept that, if it were an adversarial procedure where you have a lawyer on both sides. I don't think you can truly have justice—I think you can have a court that meets in secret. I think courts can protect individual names and I want them to. I thought Senator WYDEN made a great point when he was out here.

Intelligence activities, at their core, we have to protect the names of operatives. You do not want the code out there, like if we have a great code and we are stealing information from our enemies and we are eavesdropping on our enemies, we do not want the code out there that shows how smart we are and how our technology works. But if we are going to do something like collect the records of all Americans, that is a constitutional question.

You can have opinions on both sides of it. I do not think there is much of a valid constitutional reason for believing in this. But you can have an opinion. In a democratic Republic, we could argue these points back and forth. But you really would have to have the ability to have a discussion over those things. Because I think without that, I do not think we can actually get to justice.

Mr. COONS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Kentucky yield for a question?

Mr. PAUL. Mr. President, I would yield for a question but not yield the floor.

Mr. COONS. Mr. President, I am wondering whether the Senator from Kentucky would be good enough to confirm for me where I think the issue is that is before the Senate today. So if I might, I will speak for a few minutes about what I think is the core issue before us on the floor and then ask the Senator whether he would confirm that this is his understanding as well.

At the outset, I will say it is relatively rare for my colleague from Kentucky and I to come to the floor in agreement on an issue, but it has happened before on exactly this issue. I think it is important that it be clear to folks that there are concerns on both sides of the aisle on the critical underlying issues about how we balance privacy and liberty, security and our civil liberties.

For nearly a decade, our government has operated a program that collects massive amounts of information from innocent Americans without any specific suspicion they have done anything wrong. Let me put that another way. For years, any American's communication data could have been tracked and collected by the government, whether or not they were suspected of a crime.

That program has been carried out under Section 215 of the PATRIOT Act based on flimsy or mistaken interpretations of the original law, all in the name of our national security. Yet the bulk collection program has had disputed and not arguably clear benefit to our national security. There is not one clear publicly confirmed instance of a plot being foiled because of this section 215 program. I have long been concerned about the scope and the reach of our intelligence community's bulk collection program.

That is why in 2011 I voted, along with my colleague from Kentucky, against the straight reauthorization of the PATRIOT Act. I believed then, as I believe now, it would be irresponsible for Congress to continue reauthorizing the law without taking steps to address concerns about unlawful surveillance it has allowed, particularly given the fact that earlier this month a U.S. Federal circuit court specifically deemed this program illegal.

Fortunately, we have an alternative, which I believe the Senator from Kentucky has been expounding on behalf of, the USA FREEDOM Act, a bipartisan bill passed by the House just last week by an overwhelming margin—I think it was 338 to 88. It would end bulk collection by only allowing the Federal Government to seek call records retained by the telecommunications industry once it has established a record is relevant to an ongoing investigation.

Records would no longer be stored by the government but would remain in the hands of telecommunications companies, which under FCC rules, in order to ensure that there is customer access to records in the case of a dispute, they are retained for 18 months. This bill strikes an important balance by protecting American's privacy and ensuring our government can still keep our Nation safe.

In fact, there are some who might argue that the USA FREEDOM Act would allow a stronger and more robust and more effective series of actions to keep our Nation safe. I urge my colleagues to support it. I know these are difficult decisions for us to make. I know we all have concerns about our Nation's security, but we have to all have concerns about our Nation's freedom.

We fought for it from the very beginning of our country. I want to just thank and salute Members here, colleagues, and in particular my colleague from Kentucky for being insistent that we have clarity about time. We were told 4 years ago, when the reauthorization fight was happening, that time had run out and that we needed to reauthorize it, without considering needed reforms that were discussed and debated in the Judiciary Committee.

Two years ago, some of the core elements of this were exposed to the world. A lot of my constituents raised legitimate and serious concerns about it. Whether we are being asked to extend it for 2 week or 2 days or 2 hours, I think time has run out for us to even discuss reauthorizing a program that has explicitly been held illegal. We instead need to come together and take up and pass the USA FREEDOM Act.

Would my colleague from Kentucky confirm that is the situation on the floor at the moment and on behalf of which he was speaking?

Mr. PAUL. I think what is still unclear to me is what will be taken up and what votes there will be on this. I believe that the debate is a very important one, that it is one we should engage in and have a significant time to talk about, and there should be amendments. As you know, sometimes the amendments get offered and then things sort of fall away.

I want to ensure that on something this important that comes up only once every 3 years and on which the court just below the Supreme Court has said we are doing something illegal, that we don't just gloss over and say we are going to keep on doing something the courts have said is illegal.

As far as the end result of where it goes, I want to end bulk collection. So I agree with all of the people on the USA FREEDOM side. I am a little concerned that we might be transferring government bulk collection to privately held bulk collection.

In the selector terms they use in the USA FREEDOM Act, it says ''person.'' It says ''specific person.'' I think it defines ''person,'' though, as still including corporations. My concern is that you could write into specific person ''Verizon'' again, and we are back where we started.

So if we could get to a point of, No. 1, allowing some amendments to be voted on and maybe changing it such that you can't have—see, to me, the biggest issue here is a general versus a specific warrant. I don't want warrants that you can get everybody's records all at once or even one company's. I want the warrant to say—and I am fine with getting terrorists. I want to get terrorists. If John Doe is a potential terrorist, put his name on it. You can go as deep as you want into the phone records, but do specific warrants. But I don't like it if you just say: I want everybody's records from a phone company.

So I am concerned that we are trading one bulk collection for another form, and I need to be a little more assured on that. I think there might be

room for it if people were open to discussion on how we could figure out a way to get something through because it is going to difficult, as you know, to get to 60. It is going to be hard either way. The other side wants the bulk collection, and if people want the bulk collection, they want more of it. And then there are at least half of us who think it is the wrong thing to do.

I don't know the outcome, but I was uncertain enough that I came today to come to try to draw attention to it. And if I had a request today, it would be the leadership to let amendments to go forward, that we agree on having a pretty free amendment process.

This is only every 3 years, and it is a big deal. We don't have much legislation come before us where an activity has been said to be illegal by an appellate court, we continue to do it, and then people want to advocate to continue to do something that is illegal. But I am going to try to see what I can get. I am hoping to get an answer—maybe today—from leadership on whether they will allow amendments to this. I want to be pretty certain that is going to happen because they seem to fall away sometimes.

Mr. TESTER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Kentucky yield for a question?

Mr. PAUL. I want to continue to keep the floor. I yield for a question without losing the floor.

Mr. TESTER. Mr. President, first, I thank the Senator from Kentucky for what he is doing. I think this is very important, and I stand here today with my colleagues on both sides of the aisle to protect Americans' privacy rights.

I am very much concerned by the overreach we have seen in the name of national security, and I oppose efforts to reauthorize any piece of it without real reforms.

Folks in Montana know I have been an opponent of the PATRIOT Act since it was signed into law. Why? Because the PATRIOT Act violates law-abiding citizens' rights to privacy—something we hold dear in this country. We do need to make this country as secure as we possibly can, but we cannot do that at the expense of our constitutional rights.

It has been talked about here earlier today that a Federal court recently ruled that the NSA bulk data collections are illegal, flat illegal. But keep in mind that the NSA used the PATRIOT Act to authorize those data collections. Yet, in the Senate, some of our colleagues think we should reauthorize those expiring provisions without even having a debate on the merits. We have seen this before. It has happened several times since I have been in the Senate.

Trying to jam an extension of the PATRIOT Act through the Senate at the last minute is not fair to this body, and it is not fair at all to the American people. We deserve a real debate on privacy and security in the Senate. It is too important of an issue not to. We have to put some sideboards on our national intelligence agencies so that they can keep us safe without violating our constitutional rights. We need a real debate on this issue.

Last week, the majority leader made a decision to deprive the Senate and the public of debate by taking up a trade bill which we could have passed in June. No doubt about it, we are approaching the Memorial Day recess. Some folks are anxious to go home, but we have work to do. I will continue to work with my colleagues to ensure that we make real reforms to the PATRIOT Act. If the people in this body don't know that this is important, they don't know the Constitution.

I thank everybody who spoke on the floor today. We need to have a debate. We need to have a debate on what the PATRIOT Act is about, how it is being utilized, and how we need to move forward. An extension is not acceptable.

I yield the floor back to the Senator from Kentucky and thank him for the work he has done on this issue.

Mr. PAUL. I thank the Senator from Montana, and I think that is further evidence that there is bipartisan support for the Constitution.

The PATRIOT Act went too far. We have heard from both Senators from Montana, from opposite parties, who both wanted to defend the individual, wanted to defend the Bill of Rights, and think that we have let the government go too far. I think the American people agree with this as well.

I think without question—this is one of those things that are kind of perplexing, if you think about it. If you ask most Americans, if you do a poll or a survey or ask most Americans ''Should the government be allowed to look at your phone records without any suspicion that you have committed a crime?'' I think there are a very low number who think that. But then when you get to Washington, it is almost the opposite. You have people in Washington who have, I think, viewpoints that are really out of step with what the American people want.

I think the American people really have decided that the bulk collection of records is wrong, that it is unconstitutional. The second highest court in the land has said it is illegal. Yet, you still have a significant body of people in this country saying: Not only keep doing it, let's do more of it.

The problem is that if we are going to allow records to be collected without individualized suspicion, what we are doing is allowing something, when we talk about bulk collection, that has no sort of determinants for what suspicion is. You can imagine what the danger of that is if you apply that to everything.

Also, in an age where we have computers that can analyze and hold so much information—they are building them bigger and bigger and gathering more and more and processing this information—there is great danger that could come from this.

I wrote something about ''1984'' a couple of years ago, and I said when I read it the first time—and a new big brother, you know, was the danger of all these things. I thought, Oh, this is terrible. But I felt comforted. I read it probably in 1978.

We didn't have the technology to eavesdrop on everyone. We didn't have the technology to know everyone's whereabouts. We didn't have the technology to have cameras in every house.

In the book, they talked about looking at people back and forth through two-way televisions and monitoring. Everybody, as you know, had to be careful where books were placed. You had to read in secret basically. But because the technology didn't exist when I read ''1984,'' I really wasn't as concerned about it. But the thing is that you don't lose your freedom in one fell swoop; you lose it a little bit at a time.

People say: Well, the people doing this are good people.

It is like the President said. When the President signed legislation a few years ago that said that an American citizen can be detained without a trial, he said: But I am a good man, and I won't use this power.

It is sort of a fundamental misunderstanding of law and the rule of law that you think that the goodness of yourself or the goodness of the individuals around you somehow is the protection of the law. The law is really to protect you against bad people. The law is to protect you when bad people get in office. The law—and those who believe in the rule of law—is based on the fact that there is an understanding that in the time of history, people were democratically elected who were bad people and that people, once given power, become addicted to it and they want more of it.

Lincoln once wrote that any man can stand adversity, but if you want to truly challenge a man, give him power. That is what we are talking about. We are talking about unlimited power. We are not even talking about power that is constrained by law at all.

The whole idea that the PATRIOT Act has anything to do with the bulk collection is a farce. The President's privacy commission has really put this in bold for us, that really there is nothing about the PATRIOT Act that has any resemblance to what we are doing with bulk collection. So that is not only the rule of law, that is people within government, within the executive branch, who have made the decision that they are going to do whatever they want.

One of the things that worries me about this debate—and I think it is good that we are having the debate—there is apparently a section of the PATRIOT Act as we passed it the last time that says that if the PATRIOT Act is not extended, all things previously being investigated before will continue. So we really kind of have a perpetual PATRIOT Act, if you will. That worries me a little bit, but then it

worries me a little more that we are not even really paying attention to the PATRIOT Act; we are doing whatever we want. It is sort of a lawlessness that allows us to collect bulk records because there is no relevance to an investigation. As they said in the privacy commission, we are collecting the records before there is any investigation. So there is no relevancy to an investigation. The investigation hasn't started yet, unless the investigation could be defined as everything.

I like the way they put it. They said we would have to destroy the definition of ''relevancy'' to believe that there is any component of relevancy to these investigations.

But we are collecting records of every American all of the time right now. It may not be just phone records; they say the biggest source of collection now is probably actually through section 702 of FISA, the FISA amendments. We are not exactly clear who gets scooped up in that.

Once again, if these are the records of foreigners, if these are the records of people bent upon attacking us, I am all for getting that. But the way they are collected—and by some allegations, intentionally so—we are sometimes targeting a foreigner, so we don't have to use a standard at all in order to get information on an American.

So let's say they want information on you. I am not sure why, because some of this is being used for drug crimes and domestic crimes. So let's say they want information on you and they don't want to get a warrant or a judge says no. In fact, that sometimes happens, that the FISA Court judge says no and then they use one of these other end-around ways that don't even require a FISA Court judge.

The level of lawlessness is appalling. The level of lawlessness is astounding. It disappoints me that the President, who was once considered by some to be somewhat of a civil libertarian, does nothing. When the President ran for office, the President said that national security letters ought to be signed by judges. He was in the exact same place where I am on civil liberties with regard to these warrants, the national security letters. Yet, his administration issues them by the hundreds of thousands. I don't think they are even reporting these anymore for us. I think they were reporting them for a few years, but we are no longer getting information.

But it disappoints me that the President is not really willing to do anything about this. The President could end the bulk collection tomorrow. It is done by Executive order; it could be undone by Executive order.

It is disingenuous, at the very least, that the President says: Oh, yes, we are going to balance liberty and security.

Well, no, he is not. He is not balancing anything. He is just continuing to collect all of our records without a warrant. He is continuing to do bulk or general collection of records without a warrant.

I think the American people are ready for us to be done with this. My hope is that during today we will call attention to this and that the American people will say: Who are these people who want to keep collecting our records without a warrant, and why do they still want to do this when the people who have investigated it have determined that no one has been captured by this program, no one has been uniquely identified by this program?

So there really is a consideration of whether we are going to listen to the American people. Are we going to wake up? Are we a representative body?

This question is, Are we going to allow a debate on something that only comes around every 3 years or are we going to say ''My goodness, it is the weekend, it is Memorial Day weekend, and we are up against a deadline, and we just don't have time to listen to this. We don't have time to talk about the Bill of Rights because we just don't have time. I know it has been 3 years that we have known this date was coming up, but we don't have time''?

I think at the very least we could make time, and that is my request today. My request of the leadership on both sides of the aisle is: Can we not make time? There are at least 10 or 15 of us who will cosponsor about 5 or 6 amendments that we want votes on. Frankly, I think with the mood of the country, we have a chance on a few of these.

I would like to see how a vote would turn out on the idea, for example, that we are using a less-than-constitutional standard to gather information that we say is for terrorism, but then we put people in jail domestically for crimes that are completely and entirely unrelated to terrorism; that whether or not we can use information gathered in a nonconstitutional or a less-than-constitutional way is going to be used for domestic crime.

If you believe that, it means we are carving out in our domestic laws an area where the Constitution doesn't entirely apply. Section 213 allows the entering of the house in a nonconstitutional way—a way that, if it were done in a straight-up fashion, the courts would say it is illegally gathered information and wouldn't be admissible in court.

I think we ought to have a vote. Is the PATRIOT Act our less-than-constitutional means of gathering information to be used in domestic court?

Here is the other question, if they will be honest with us: Are they using them in any other courts? Are there IRS investigations that begin as terrorist investigations but end up in IRS court?

In some ways, I think yes is the answer. We have now the IRS basing investigations of people maybe for political purposes but definitely for the purposes of whether individuals are doing transactions in certain ways or whether their records are in a certain way. And because it is done this way, we are not really requiring convictions before we take their stuff. This is a separate but related problem because it has to do with using records to gain entrance to people and to then take their stuff without a conviction.

I think that is an important question. Are we innocent until proven guilty? Are we really going to allow the government to take possession of your things, to take possession of your things without a conviction? I would think the presumption of innocence is an incredibly important doctrine that we shouldn't so casually dismiss.

This is a poll that was commissioned by the ACLU on Monday, and they asked a sample of 300 likely voters between the ages of 18 and 39 a few questions.

It says: Which of the following statements about reauthorizing the PATRIOT Act do you agree with more?

Some people say Congress should modify the PATRIOT Act to limit government surveillance and protect Americans' privacy. Sixty percent agreed.

Other people say Congress should preserve the PATRIOT Act and make no changes because it has been effective in keeping America safe from terrorists and other threats to national security, like ISIS or Al Qaeda. That was 34 percent.

Those are the overall numbers. If you look at it by all parties—Democrats, Independents, and GOP—it is 58 percent or greater. In fact, Democrats and Republicans are pretty equal, which is interesting, with 59 percent of Democrats and 58 percent of Republicans thinking we have gone too far in the PATRIOT Act and that Americans' privacy is being disturbed by the PATRIOT Act.

If you look at Independents, it is 75 percent among men who are Independent and 65 percent among women who are Independent.

The survey asked people: Do you find it concerning the U.S. Government is collecting and storing your personal information, like your phone records, emails, bank statements, and other communications? Eighty-two percent are concerned the government is storing this information.

Over three-quarters of voters found four different examples of government spying personally concerning to them: The government accessing personal communications, information or records without a judge's permission—83 percent—using that information for things other than stopping terrorists, such as I mentioned, doing convictions for drugs, were the most compelling examples for voters.

With regard to whether the government accesses any of your personal communications, information or records you share with a company without a judge's permission, people were asked to tell them whether they were concerned with this issue. Eighty-three percent were concerned.

When asked about the government using information collected without a

warrant for things other than stopping terrorist attacks, 83 percent were concerned.

When asked about the government allowing private companies to use public school technology programs to track online activities of schoolchildren, 77 percent were concerned.

When asked if the government performs instant wiretaps on any phone or other telecommunications devices located in the United States, 76 percent were concerned.

From this ACLU study of young people—I believe they were all ages 18 to 39—participants were asked whether or not these were conditions that would lead you to believe that Americans need more protections of their privacy: Local police and the FBI need a warrant issued by an independent judge for a valid reason before they search your home or property without your permission; the same should be true of your email and phone records. And 84 percent agreed.

If you ask that question in Washington, it is about a 10 or 15 percent question. Most people in Washington don't think your email or your phone records should be protected by needing a warrant. But if you ask most Americans the question—particularly young Americans—should your email or your phone records be protected by a warrant? Most people say yes.

The government requires some companies to intentionally include security loopholes in their services to make it easier for law enforcement to access your information. These are these backdoor things where they can insert malware. This makes the government less safe by leaving us vulnerable to terrorists and spies of foreign countries who want to harm the United States. Eighty-one percent were concerned with this and thought we should have more privacy.

I think it is clear the American people are concerned about what we are doing. What isn't yet clear is whether the message has been transmitted to Washington; whether or not there is enough of a majority growing in Washington to actually do something about this. But I think the numbers are growing.

Over 300 people in the House acknowledged there was a problem and passed legislation. I have mixed feelings on the legislation. I think, without question, I agree with those who voted for it that bulk collection of records is wrong and that it should end. I have been a little more in the camp, though, that we should just end the bulk collection of records and replace it not with a new program but with the Constitution.

I personally think we could survive with the Constitution. I think we could also survive and catch terrorists with the Constitution. In fact, I think we can get more information with the Constitution. I think valid warrants are much more powerful. A valid warrant allows a great deal more information and it is also specific.

Once we are doing valid warrants, we are not doing this sort of dragnet. We are not doing this sort of vacuuming up of everything. We are not becoming overwhelmed with a lot of incidental data. We are specifically going to the heart of things. We are specifically going to the core of whether we can actually get the people who are attacking us.

When we look at the privacy report we have talked a little bit about—the Privacy and Civil Liberties Oversight Board, a bipartisan board that basically said very explicitly to the President that what he was doing is illegal—it does still boggle my mind the President was told by his own privacy board what he was doing was illegal and he just keeps doing it. It somewhat boggles the mind that he was told by the appellate court that what he is doing is illegal and yet he just keeps doing it.

It is an incredible deflection. It is incredibly disingenuous when the President says: Well, we are going to balance liberty and security, and I am just waiting for Congress to tell me what to do. Well, he didn't wait for Congress to tell him to collect the phone records. In fact, we never did such a thing.

Even the people intimately involved with passing the PATRIOT Act—those who were the cosponsors and authors of the PATRIOT Act—have all said they never intended and don't believe the PATRIOT Act gives any justification for bulk collection of records. So Congress never authorized the bulk collection of records.

Two different Commissions the President has put forward—the privacy and civil liberties as well as the review commission—have both told him it is illegal. Yet he keeps going on.

I have heard very little questioning of the President or his people about this. I kind of wonder why we don't ask more questions, why we just sort of accept that a program that is said to be illegal by the courts, a program that is said to be illegal by two different independent commissions—why wouldn't we just stop it? Why does the President not have the wherewithal to stop it? It disappoints me.

The program was actually begun even before the PATRIOT Act was finalized. We did this for a couple of years simply by Presidential edict. This is another concerning development in our country; that more and more of our government is run by Executive edict or by Executive order—thousands and thousands of Executive orders.

In the 1950s, we had a discussion of Executive orders. I think it is the only time it has gone to the Supreme Court with the Youngstown Steel case. In that case, the Court came down and said there are three different kinds of Executive orders: There are Executive orders that are clearly in furtherance of legislative action, and those are perfectly legal. There are Executive orders that are debatable, whether they further legislative action or not. But then there are some Executive orders that are clearly in defiance of what the legislature has done, and these are clearly illegal. And the Supreme Court struck down what Truman had done.

I think we need to revisit that debate. Because what is happening in our country—and it may well be the biggest problem in the country and is part of what is going on with this bulk collection but really is part of a bigger problem—is that power has drifted away from Congress or has been abdicated and given up. We gave the power to the Presidency, and we didn't do it just in one fell swoop. It wasn't just Republicans. It wasn't just Democrats. It was a little bit of both, and it has been going on for probably over 100 years now. I think it accelerated in the era of Wilson, but over decades it has gotten bigger and bigger and bigger. Under the New Deal, the executive branch grew an alarming amount, but more recently it continues to grow by leaps and bounds.

It may well be that the No. 1 issue we face as a country is that we have had what some have described as a collapse in the separation of powers. Madison talked about that each branch would have ambition to protect their own power; so we would pit ambition against ambition and then each would jealously guard their power, and, as such, power wouldn't grow. Power would be checked. But power has grown. It has grown alarmingly so and mostly grown and gravitated to the executive branch.

In the short time I have been here, I have seen that in many ways the least of our bureaucrats are more powerful probably in some ways than the greatest of our legislators, and the most powerful of our legislators are somewhat of less power than bureaucrats.

Almost every constituent that comes to talk to me from Kentucky and has a problem with government—as we explore the problem and explore the solution, we discover that Congress didn't pass their problem. Congress didn't write the rule that is beleaguering them. Congress didn't inflict the punishment that is making it difficult for them to run their business. It was done by an unelected bureaucrat.

This has grown, and sometimes it has grown from even when we had good intentions. We tried to do the right thing and it turned out wrong. Probably that is really the story of Washington as well.

Take even the Clean Water Act. The Clean Water Act I support. I would have voted for it from 1974. It says you can't discharge pollutants into a navigable stream. I agree with that. The problem is that over about a 40-year period we have come to define dirt as a pollutant and my backyard as a navigable stream. So, once again, we have taken our eye off the prize.

The things we really ought to have the government involved with—big bodies of water, bodies of water between the States, rivers, lakes, oceans,

air—there is a role for the government to be involved. But because we have people abusing the rights of private property owners and saying, if you put dirt in your backyard, we will put you in jail, it has become sort of to the point of craziness. But it is all executive branch overreach.

There was a case that went to the Supreme Court a few years ago in Idaho. A couple lived near a lake but about a mile from a lake. They didn't live on the lake. It was on an incline, and there were houses on both sides of their property. So they bought their property and started doing what everybody else did—back-hoeing, creating a footprint, filling it and putting down footers.

The EPA showed up and said: You are destroying a wetland, and we are going to fine you $37,000 a day.

They were kind of like: Well, I thought if it were a wetland, there would be water or standing water or it would look like the Everglades or there would be some sort of evidence that it was wetlands.

The EPA said: Yes, there is evidence. If any one of 300 different species of plants grows in your backyard, we can define it as a wetland. If we can take leaves and flip the leaves over and they are black on the bottom, it indicates there is moisture on the leaves and you could be a wetland.

This all came out of crazy executive overreach. We did not do any of that. Congress did not do one iota of this expansion. It was done some by these law courts—these EPA courts—but it was done a lot by executive definition of what a wetland is.

In the early 1990s, under a Republican President, we redefined wetlands. They commissioned a book—a 150-page book, 200-page book—and they just redefined what a wetland was. By redefining what a wetland was, we doubled the amount of wetlands in the country overnight—not by preserving land but by redefining a lot of land that really is not a wetland.

Now, through the waters of the United States, we are connecting everybody to the ocean somehow and saying that every bit of land is somehow connected to navigable water.

I was talking to one of the Senators from Idaho a year or so ago and I liked what he told me. He told me: In Idaho, we have a very precise definition of what a navigable stream is. You put a log in of a two-inch diameter, and it has to float 100 feet in a certain period of time. I just loved the definition of it because that sounds like a stream that is probably moving and there is water in it. But we now say a crevice in the side of a mountain, if when it rains water goes over, it is a stream. But as a consequence, we are shutting down America.

People complain about jobs, but they are all for these regulations, and then they complain that they don't have a job.

One gentleman decided he was going to put dirt on his land in Southern Mississippi. It was what he considered to be uplands. There were trees growing on it, so usually trees are not really a typical feature of wetlands. His daughter was 43 at the time and he was 70. They were going to develop the lots and sell the lots, and so he dumped some dirt there. The EPA got involved and they convicted him using the RICO statutes. This is what you are supposed to get gangsters and drug dealers with. It was conspiracy. They got him for conspiracy to violate the Clean Water Act by putting clean dirt on his own land where there was no water to begin with. He was given 10 years in prison. He just got out of prison about a month ago. He is now 80 years old. That is what is happening in America.

So if you wonder why some of us are worried about our records being snatched up, we are worried that our own government has run amok, that our own government is out of control, and that our own government is not really paying attention to us.

To put a 70-year-old man in prison for 10 years for putting clean dirt on his own land—the person who did that ought to go to jail. They ought to be put in a stockade, publicly flogged, and made to pay penance for a decade for doing something so stupid.

But the thing is this is going on.

A guy named John Pozsgai was a Hungarian immigrant. He came here from communism and he loved our country. He worked hard and he had a mechanic shop in Morristown, NJ. It wasn't in the greatest part of town. It was a commercial part of town. Across the street from him was a dump. It did flood on occasion, but the reason it flooded was because the ditches were full of 7,000 tires. People were just throwing all kinds of crap there. There were all kinds of rotted-out automobiles. It was a junkyard, so they had thrown all this stuff out there.

He bought the land pretty cheaply because it was a junkyard, and he decided to clean it up. He picked up 7,000 tires. He picked up all the rusted automobiles. And, lo and behold, when he cleaned the drainage ditches, it no longer flooded. But he started putting some dirt on there and the government said he was breaking the law and that he was once again contaminating the wetlands. He was a Hungarian and he didn't like to be told what to do, and I can understand the sentiment. So he just kept putting dirt on there. He decided to do it at night, and they caught him because they spent—I don't know—a quarter million dollars on cameras and surveillance to catch a guy putting dirt on his own land.

He was bankrupted. They put him in jail for 3 years, they fined him 200-and-some thousand dollars. They wiped him out so he couldn't pay the taxes. They broke his spirit. I met his daughter. It is just a tragic case.

So if you wonder why some of us are worried about the government having all of our records—

I talked earlier about what happened in Westchester, and this is an appalling thing. This should make you concerned about having records. In Westchester—I think that is where the Clintons live. Anyway, they decided they would reveal all the gun records. So in Westchester they revealed whether you had a gun or didn't have a gun and where you lived.

Can you imagine how that might be a problem? Let's say you are a wife who has been beaten by your ex-husband and you live in fear of him and you either have a gun or you don't have a gun. Either way, you don't want your ex-husband to know where you live. And particularly if you don't have a gun, you don't want your ex-husband who beat you to know you don't have a gun.

Think if you are a prosecutor or a judge. They get threatened by the people they put in jail. Would you want your name in the paper with your address and that you have a gun or don't have a gun?

So you can see how privacy is kind of a big deal. Privacy can mean life and death in that kind of situation.

I think we ought to be more cognizant of what a big deal this is and what a big deal the Bill of Rights is. We shouldn't be so flippant that we are like: Oh, yes, whatever. We have to be safe. Maybe we catch a terrorist, maybe we don't, but we have to do this and we just have to give up some of our freedom to be secure.

It turns out, though, when we look at the objective evidence, it doesn't appear we are safer. It appears that when they have alleged that we are safer, what has happened is that it doesn't look like we have gotten any unique intelligence from these things.

I think there is probably nothing more important than discussing the Bill of Rights and talking about our civil liberties. I think we need to have an adequate debate. It is supposed to be what the Senate was famous for.

My hope is that from drawing some attention to this issue today we will get an agreement, and that is the agreement we are going to ask for. We are going to ask for an agreement from both parties to allow amendments to the PATRIOT Act, and we could start any time they are ready. If somebody wants to send a message to the leadership that if they are ready to come out and allow debate and allow amendments on the PATRIOT Act or a promise to do this before the expiration, we could probably get something moving.

I think the American people are ready for that debate. We can look at the statistics, particularly among young people. It is a 70- to 80-percent issue, where young people are saying, for goodness' sake, we don't want our records scooped up and backed up by the government without any suspicion.

I think also young people get this more than others because they are used to their records being digital, they are used to their records being on their phone. They are very aware that their

records are stored on a server somewhere, and they have grown to expect privacy.

Some say, oh, that is crazy. Young people share their information all the time. Well, you do and you don't. I share my information when I buy things online, but I am sharing it through an agreement. The people I share it with, the companies that then market other things to me, have agreed, through a privacy agreement, not to share my information, not to sell my information. I am to be anonymous. They will market to me, but they promise to keep me anonymous. We are comforted by the fact that we have a privacy agreement, and that if millions of people sued them, they couldn't get away with revealing our information.

What I don't like about some of the different things we are doing—and this includes the USA Freedom Act—is that we give liability protection. When we give liability protection, I think it is an invitation to say: You know what. Your privacy agreement isn't really that important, and if you breach it, nobody is allowed to sue you. So I think that is something we ought to be very careful with, and if we do end up having a debate on this and we do end up having amendments on this, that we consider taking out the liability protection.

I also think the most important thing is if we decide that bulk collection is wrong, we need to understand how you get bulk collection. You get bulk collection because you have a nonspecific warrant. You don't have an individualized warrant; you have a general warrant.

This is what we have been fighting since the time of John Wilkes in 1760 in England, to James Otis in the 1760s here through John Adams. The debate and the thing that we found most egregious, the thing that we found most objectionable was the idea that a warrant for your information wouldn't have your name on it, it wouldn't be individualized or that it wouldn't be without suspicion or that it would occur without a judge's warrant. It really was one of the things that annoyed us more than anything else. One of the things that Adams said was the spark of our war for independence was just the sheer gall of British soldiers coming into our house without a warrant because most of the records are in your house. We don't see basically the physical and abrupt entry into your house anymore, but it happens nonetheless. It happens in just less of a physical way because your records are virtual now. But how we let people come into our house is pretty important.

On the issue of warrants—this isn't specific to the PATRIOT Act, but it is a related issue. The issue is whether we should allow people to come into our house in the middle of the night with what is called a no-knock raid. The sneak-and-peek, they come in and leave. But the no-knock raid, you know they are there when they come. The problem is that people were being woken up in the middle of the night and they were grabbing their gun by their bedside. If they are in a high-crime neighborhood, they have a gun by their bedside and they are sometimes shooting the police. Mostly they are looking for drugs. I hate drugs about as much as anybody. I have seen addiction to drugs, I have worked with people as a physician and I know what it is like. But the thing is that barging through doors in the middle of the night leads to accidents in both ways: Police get shot; police accidentally shoot the victims sometimes.

In Modesto, I think in 2002, they burst into a home at 1 or 2 in the morning, yelled and screamed: Everybody get on the ground. There was an 11-year-old kid. He got on the ground, and the officer's shotgun accidentally discharged. It was an accident, but it didn't help the kid. He died.

The thing is, do we really need that? Do we need to come in the middle of the night looking for marijuana or any kind of drug? Couldn't we come in the daytime and knock on the door and say: We have a warrant.

I know police work is not without risk and people do shoot back at them. So I understand where they are coming from, and I want to protect them and for them to be safe. I want to protect the police, but I actually think it protects the police more if we go in the way we do with traditional warrants and not without unannounced warrants.

Of course, there are different circumstances or exigencies. There are times when the police go in without any warrant at all. If there is something imminent going on or some threat of a danger or situation inside, the police go in. I think, for the most part, we are better off if we do things and do them in the traditional way with warrants.

When we talk about how warrants have changed, one of the changes is the standard for what the warrant is issued with. Even if it were individualized, if it says that you only have to say they are relevant to an investigation. That is a big step down from probable cause. People have defined ''probable cause'' over time in different ways.

This is from Ballentine's Law Dictionary. A common definition of ''probable cause'' is ''a reasonable amount of suspicion, supported by circumstances sufficiently strong to justify a prudent and cautious person's belief that certain facts are probably true.''

Some lawyer must have written that. But you can kind of get a little bit of understanding that we are supposed to go through some kind of thought process and there is supposed to be evidence of suspicion. It is not the standard of proving guilt, proving beyond the preponderance of the fact or any kind of doubt. It is a standard, and it is a standard we have had for a long time.

The Oxford Companion to American Law defines ''probable cause'' as: ''Information sufficient to warrant a prudent person's belief that . . . evidence of a crime or contraband would be found in a search. 'Probable cause' is a stronger standard of evidence than a reasonable suspicion, but weaker than what is required to secure a criminal conviction. Even hearsay can supply probable cause if it is from a reliable source or supported by other evidence.''

It is kind of interesting because people are so worried about getting a warrant, even a warrant can be supported by someone making an accusation. It is not perfect. In fact, there are some people who complain warrants are too easy to get. But the thing is there is no evidence that it is really overly hard to get a warrant. If we went back to the Constitution—I had this debate years ago the last time I came up for renewal, and I was walking along with one of the other Senators who supported the PATRIOT Act. He acted as though, you know what, if it expires at midnight, what will we do? My response was maybe we could live with the Constitution at least for a while. We did for hundreds of years.

Is there anything so unique about the times we live in that we could not still live under the Constitution? The Fourth Amendment has its origins in English common law. The saying that a man's home is his castle, this is the idea that someone has the right to defend their castle or home from invasion from the government.

Based on the castle doctrine in the 1600s, landowners first recorded legal protection from casual searches from government. Some of the famous cases are actually in the 1760s, but even at least 100 years in advance of that, they were beginning to develop protections for people from the government.

It is interesting to realize this is not a new phenomenon where we are talking about protecting ourselves from government. We protect ourselves and government helps us protect ourselves from others who may be violent against us. But we have always—for hundreds and hundreds of years—been aware that government does bad things too. If you do not ration the amount of power you give to government, you can get to the point where the great abuse comes from government itself. So they began to use warrants. But in England the debate quickly developed over whether a general warrant was adequate or a specific warrant. This is where John Wilkes comes in. This is where James Otis comes in.

One of the debates over the separation of powers that we have—this is pretty commonly going on, although I think the people who believe in unlimited inherent powers are probably the majority of Washington. But there is a debate over what people call article II powers. The article II is where the Executive is given powers under the Constitution, but there are people who sort of believe in this unlimited nature. There is really nothing that restrains

it. In fact, some have said even in the debate over this, the Executive Order No. 1233 that is involved in some of this records production, it is really none of our business because it is article II. It is part of the inherent powers of the President to, in times of war or times of conflict, to do whatever they need to do.

I think that is a dangerous supposition, to think that really there are times when there are no checks and balances. I personally think probably one of the most genius things we got out of our Founding Fathers was the checks and balances and the division of power.

Montesquieu was one of the philosophers the Founding Fathers looked to and some say when we were setting up the separation of powers that he was probably where we got the example. Montesquieu said that when the Executive begins to legislate, a form of tyranny will ensue because you have allowed too much power to gravitate to one body and you have not divided the power. The division of power was one of the—if not the most important—the most important things we got from our Founding Fathers. But we are having this collapse of the separation of powers. It is getting to be where there is an ancillary body which is Congress, and then there is the executive branch, the behemoth, the leviathan.

The executive branch is so large that really the most important laws in the land are being written by bureaucrats. No one elects and no one can unelect. In an average year, there are over 200 regulations that will cost the economy $100 million apiece. We do not vote on any of them. We vote indirectly for the President, but I think that is so indirect that it is a real problem.

I think what we have now is an executive branch that legislates. The collapse of the separation of powers is a collapse of the equilibrium. This equilibrium is what kept power in check. When I think who is to blame for this, it is not one party; it is really both parties.

When we have a Republican in office, Republicans tend to forgive the Republican President and give them more power. When we have a Democrat in office, the Democrats tend to forgive a Democrat and give the Democrat more power.

A more honest sort of approach to this or a more statesman's like approach to this would be that if we were able to have both parties stand up as a body and if there were pride in the institution of Congress—pride such that we were jealous of our power, that we were pitting our ambition to keep our position against the President regardless of the President's party affiliation—then we might have a chance.

A lot of the things about collection of bulk data were not known for years and years but have been going on for a long time. One of the things I found most troubling in the John Napier Tye op-ed was that he said—he was giving a speech and he said: Well, the good news is that if the American people are upset, if they are upset about things, intelligence activities, and they think it is an overreach, they have every opportunity to use the democratic process to change things. This went through the White House censor and the White House censor—counsel, adviser, boss—decided they needed to take that out of his speech because they did not want to imply, really, that intelligence activities could be changed through democratic action, because they took the opinion apparently that the inherent powers of article II are not subject to democratic action.

When I think of the people who say that the inherent powers are unlimited and the President has these powers that are not to be checked by Congress, I do not think of a Presidency. I think of a different word, and it is not ''President.''

I am very concerned about whether we are going to let this go on. There are some other side effects that come from this. As you allow the executive branch unlimited power and as you allow the bureaucracy to grow, a consequence or a side effect has been that the debt has grown to alarming proportions. We borrow about $1 million a minute. We have an $18 trillion debt. As the debt has grown larger and the executive branch has grown bigger, your Congress men and women have grown more ancillary and more peripheral to the entire process. But I am one who believes there are limits. I think there is a limit to how much debt we can incur and how rapidly we can incur it.

I think already we have seen sort of an anchor or a burden, an effect on the economy that pulls us down and causes growth to be less vibrant. Some say 1 million jobs a year are being prevented from being created because of this.

I think that if we are not careful, this collapse of the separation power, this collapse of equilibrium, as we let this get away from us, we are also getting away from the control over our future. We are letting the power accumulate in such a rapid fashion that if you want to see how much power is accumulating, you can almost make the analogy of looking at the debt clock. If you go to debtclock.org and watch the debt spiraling out of control, as the debt grows larger and larger, you basically are seeing a diminishment of a corresponding diminishment of your freedom. It is of concern.

It is of concern how rapidly this is happening. There are two philosophic reasons we should be concerned about power. One is that power corrupts. More basic than that is that as power grows, there has to be a corresponding loss of your freedom. I call this the liberty argument for minimizing government. Thomas Payne made this argument. Thomas Payne said that government is a necessary evil. What did he mean by that? I think what he meant by that is that you need government. We need government for a stabilizing force. There are things government needs to do. But it is a necessary evil because you have to give up your liberty to have some government. How do you give up your liberty? You give up some of what you earn. Your liberty is who you are. Your liberty is what you produce with your hands, and your liberty is what people will pay you to do with your hands, what you do to produce. That is your income. That is you. That is your liberty.

If we have 100 percent taxation, I would say you have no liberty. You are essentially a slave to the State. If you have 50 percent, you are only half slave, half free. The thing is that the smaller your government, the lower your taxation and the more free you are. But it is an argument for, if you are concerned about freedom, you would want as small a government as you possibly could have that still did the things that you think are necessary.

The other argument I like for why you should keep your government small is what I call the efficiency argument. The efficiency argument was best expounded by Milton Friedman, who said that nobody spends somebody else's money as wisely as their own. There is sort of a truism to that. You think about it in your own life. If I ask you for $1,000 to invest in a business enterprise, you will think: How long did it take me to earn $1,000. You will think: I had to pay taxes, I had to save, I had to pay all my expenses to get this $1,000. You will think how much you prize that, and you will not make the decision in an easy fashion. You will make your decision not perfectly, but if you compare your decision spending your money to a politician spending the money, it is just bound to be a wiser decision. It is a more heartwrenching decision. It ends up typically being a better decision. If you ask a politician for $1 million, that might be equivalent to $1,000 or it might not mean anything to him. You might ask him for $10 million.

Think about it this way: We gave $500 million to one of the richest guys in our country to build something that nobody seemed to want, and he lost all of the money. And you think to yourself, do you think the person in the Department of Energy that gave $500 million to one of the richest guys in the country to build something we didn't want feels bad or doesn't sleep well at night? No. I think they gave that person the money because that person was a big contributor. They were an activist for their candidate, so when the candidate got in power, they used the Department of Energy as their own personal piggybank to pass out loans to their friends. Nobody feels bad about the fact that they lost the money because it wasn't their money. It is the efficiency argument for why you should think the government should be small.

Before the PATRIOT Act, there was something called Stellar Wind. This was a secret also, and we didn't learn about this for many years, but this was started immediately after 9/11 and was revealed by Thomas Tamm at the New York Times in 2008. But it was basically a prelude to the bulk collection we are having now.

The amazing thing about bulk collection is none of this is new. It has been going on now for 14 or 15 years. It doesn't make it any less objectionable, but it is not new. We have now had bulk collection under two different administrations. One administration got a great deal of grief for this, and then the next party ran and said: We are going to change these things and do things differently. And they did them the same or more so. There really had not been any change, and I guess that is why some people are concerned as to whether we will truly get change.

The program's activities in Stellar Wind involve data mining of large databases of communications of American citizens, including emails, telephone conversations, financial transactions, and Internet activity. William Binney, a retired leader within the NSA, became a whistleblower because he believed these programs to be unconstitutional.

The intelligence community was also able to obtain from the Treasury Department suspicious activity reports. So we are back to these banking reports that are issued.

If we decide to fix bulk records and try to do something about this injustice, the main thing is we should be aware that this is not the only program. There are probably a dozen programs. There are probably another dozen we have not even heard of that they will not tell any of us about. And realize that they are not asking Congress for permission; they are doing whatever they want.

We did not give them permission under the PATRIOT Act to do a bulk collection of phone records. They are doing it with no authority or inherent authority or some other authority because the courts have already told them there is no authority under the PATRIOT Act. There is also no commonsense logic that could explain—no commonsense logic that could say there is a relevancy to all the data of every American.

When Stellar Wind came about, there were internal disputes within the Justice Department about the legality of the program because the data was being collected for large numbers of people, not just the subjects of FISA warrants. The Stellar Wind cases were referred to by FBI agents as pizza cases because many seemingly suspicious cases turned out to be food takeout orders. Imagine also that if we are looking for interconnecting spots, a lot of people order pizza.

According to Mueller, approximately 99 percent of the cases led nowhere. Nevertheless, internal counsel for the administration said that because the Nation had been thrust into an armed conflict by foreign attack, the President has determined in his role as Commander in Chief that it is essential for defense against a further attack to use these wiretapping capabilities within the United States. He has inherent constitutional authority to order warrantless wiretapping.

The memo goes one step further. It says that the President has the inherent constitutional authority to order warrantless wiretapping—we are talking about warrantless, not any kind of a subpoena—an authority that Congress cannot curtail.

If we really believe bulk collection is wrong and if we really believe we need to be a check and balance on the President, we should just be getting started with reining him in on bulk collection because the President—this was the previous administration—says these authorities they are using cannot be curtailed by Congress. If you talk about a Presidency that has powers that are not checked by Congress, I don't think you are talking about a Presidency here. There is another name for that kind of leader, but it is not ''President.''

The argument here is astounding. The argument here is that they can collect anything they want without a warrant because the President has the inherent constitutional authority to order warrantless wiretapping—an authority Congress cannot curtail. I think that is alarming.

A few years later, the Office of Legal Counsel came back—this is also from the administration—and concluded that at least the email program was not legal, and then-Acting Attorney General James Comey refused to reauthorize it.

William Binney, a former NSA code breaker whom we have talked about and who is a whistleblower, talked about some of the activities of the NSA and said they have highly secured rooms that tap into major switches and satellite communications at both AT&T and Verizon.

The article—I believe this was the New York Times—suggested that supposedly dispatched Stellar Wind—supposedly they were no longer doing this—continues as an active program. This conclusion was supported by the exposure of room 641A in AT&T's operation center in San Francisco in 2006. It gets back to the trust factor.

The Director of National Intelligence said they were not collecting any bulk data, but he wasn't telling the truth. They tell us Stellar Wind ended back in 2005 or 2006, but then we find a room at AT&T that is still hooked up directly to the NSA.

I would like to see the phone companies be better defenders of our privacy, but with the PATRIOT Act, we gave them immunity. Even if there were some individuals in the phone companies who cared about your privacy and thought your phone conversations should be protected, why do it? You can't sue them. If you have a privacy agreement with your phone company, they don't care. Nobody can sue them. You have no protection. You have no standing in the court to protect yourself. That is one of the problems with the USA FREEDOM Act, is that we are giving liability protection once again to the phone companies for something new.

One question I would ask, if there was anybody who would actually tell me the answer, would be, if we already gave them liability protection under the PATRIOT Act, why are they getting it again under the USA FREEDOM Act unless we are asking them to do something new that they didn't have permission for?

The other thing about the USA FREEDOM Act is that if we think bulk collection is wrong, why do we need new authorities? Why are we giving them some kind of new authority? Are we restricting our authority in section 215 of the PATRIOT Act on one hand and then expanding it on another?

I think when people are dishonest with you, you are right to be doubtful and you are right to try to circumscribe and to put their power in a box so you can watch them and make sure they are honest.

In June of 2013, the Washington Post and the Guardian published an article from the Office of the Inspector General—a draft report dated March of 2009 that detailed the Stellar Wind Program. So in 2009, there was evidence that Stellar Wind was still going on. And realize that Stellar Wind is not what we are talking about. Stellar Wind would be other bits of information that are being collected beyond your phone records.

I think if we had somebody here or if we had somebody who would honestly tell us, I would sure like to know if they absorb and collect all of our credit card information. I have a feeling it is probably done. I don't know, and I have not been told, so I am not revealing a secret. I guess it is done. I am guessing all of your records are collected because the thing is, we have the audacity of the executive branch saying they have inherent constitutional authority to do anything they want, to order warrantless wiretapping. According to the executive branch, they have an authority that Congress cannot curtail. That doesn't sound like the Office of the Presidency to me; it sounds like a governmental official whom you have no control over. It sounds inconsistent or antithetical to a constitutional republic. How can you have a Presidency that has unlimited power? That is what they are telling you.

They are telling you it is in the service of good. We are going to catch terrorists, and we are going to do good things. We are going to look at all of your information, but we are never going to abuse your privacy.

During September 2014, the New York Times asserted, ''Questions persist

after the release of a newly declassified version of a legal memo approving the NSA Stellar Wind program, a set of warrantless surveillance and data collection activities secretly authorized after 2001.'' The article addressed the release of a newly declassified version of the 2004 memo. Note was made that the bulk program—telephone, Internet, and email surveillance of American citizens—remained secret until the revelations by Edward Snowden and that to date, significant portions of the memo remain redacted in the newly released version as well as that doubts and questions about its legality continue to persist.

When we go back to the Privacy and Civil Liberties Oversight Board, as they get closer to their conclusion, they talk once again about the idea that you are only hearing one side. I think that no matter how honest and no matter how patriotic people are, one side just won't do it. You can't find the whole truth when only the government presents their position. The Privacy and Civil Liberties Oversight Board said that the proceedings with only one side being presented raised concerns that the court does not take adequate account of positions other than those of the government. They recommended the creation of a panel of private attorneys and special advocates who can be brought into cases involving novel and significant issues by FISA Court judges.

I think this would be a step in the right direction, but I think also that what we need to do is we should really probably give you the ability to have your own attorney. If this is a court proceeding, I think you need your own attorney so you have somebody who works for you and is your advocate. But a special advocate would be better than what we have.

The Board goes on to conclude that ''transparency is one of the foundations of democratic governance. Our constitutional system of government relies upon the participation of an informed electorate. This in turn requires public access to information about the activities of the government. Transparency supports accountability.''

I could not agree more. It is even more important when we talk about the intelligence agency because of the extraordinary power we give to these people, the extraordinary power we give them to invade our privacy and to have tools to invade our privacy. We have to trust them, so there needs to be a degree of transparency. But transparency doesn't have to involve state secrets. It doesn't have to involve codes or names. But the transparency needs to involve what they are doing. Do we think any terrorist in the world doesn't realize that all of the information is being scarfed up? It is not a secret that they are doing this.

So we should have an open debate in a free society about how it should be done and whether we can gather information in a way that is consistent with the Constitution.

When we get to the Privacy and Civil Liberty Board's recommendations, they have several good recommendations.

No. 1, the government should end its section 215 bulk telephone records program, period. They say that the program as it is constituted implicates constitutional concerns under the First and Fourth Amendments. This is the President's Privacy and Civil Liberties Oversight Board.

Without the current section 215 program, the government would still be able to seek telephone calling records directly from the communications providers through other existing legal authorities. I think the other existing legal authorities could be the Constitution. Could we not just call a judge and get a warrant and go down to the phone company and get what we want? I think there is a way we can do this that is still consistent with the Constitution.

(Mr. GARDNER assumed the Chair.)

The other recommendation they have, other than ending the program, is that when the bulk collection program is ended, the records should be purged so there is no chance that this can be abused again in the future.

One of the arguments for the NSA has been that they collect the data, it is in a database, but it is only accessed when they have what they call reasonable, articulable suspicion.

One of the recommendations of the privacy board, though, was that they not be given the ability to judge whether there is reasonable, articulable suspicion; that it would actually go to an independent judge to determine that. So the recommendation of the privacy board was that these should go to the review of the FISA Court before they are able to query the database.

There are many different groups who have been fighting for our privacy in this country, and it is a coalition of people both from the right and from the left. We have seen it today as different Senators have come to the floor. We have had Senators from the Republican Party as well as from the Democratic Party. We have had those from the right, from the left, conservatives, libertarians, and we have had progressives. There has been a combination of folks who also have one thing in common, and that is the belief that the Bill of Rights should be protected.

Among the private groups who have done a good job with this is Electronic Frontier Foundation. They have been one of the groups who have done a good job. In one of their newsletters, they quote RON WYDEN, who says: We have not yet seen any evidence showing that the NSA's dragnet collection of America's phone records has produced any uniquely valuable intelligence.

Patrick Eddington writes for CATO. CATO is another group who has been a good supporter of privacy. In an article that talks about the upcoming battle from a couple of weeks ago, he writes—this is on the USA FREEDOM Act, and this is sort of the big debate because many people on both sides of the aisle think the bulk collection of records is not constitutional. We think it exceeds the government's power and it exceeds the Constitution. But what many are proposing to replace it with is the USA FREEDOM Act.

This is what Patrick Eddington writes: The USA FREEDOM Act claims to end the controversial telephone metadata program, but a close reading of the bill reveals that it actually leaves key PATRIOT Act definitions of ''person'' or ''U.S. person'' intact, so a person is defined as any individual, including officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

So the question I have is, it sounds good that we are going to make the definition of whose records we go after when we say it is going to be a specific U.S. person. The problem is that we then define ''person'' as ''corporation.'' So we get back to the same argument: If we are going to search the database of all of a person's phone calls and we say that a person is Verizon, we are again stuck collecting everybody's records.

What I don't want to have happen and what I won't be able to support is a bill that becomes bulk collection of a person's records, just under a different venue. I am not sure that one's privacy has been protected more if it were now just asking the phone companies for bulk collection where we were taking their data, sourcing it, and getting it from the companies after they gave it to the government. I am just not sure if it is that much—distinctly different.

In the USA FREEDOM Act, they talk about the idea that we will get special advocates, and I am for that. I think that is a good idea. But Patrick Eddington points out a flaw. He says that the FISA Court has sole discretion to appoint or not appoint these amicus curiae or these special advocates. So it could be that a FISA Court that really has not been too inquisitive, a FISA Court that has determined that all of your records are somehow relevant, may not be the most inquisitive to appoint an advocate for you if they have been able to define ''relevance'' as meaning all of the records.

Another deficiency of the USA FREEDOM Act is that it does not address bulk collection under Executive Order 12333. The bill also fails to address bulk collection under section 702 of the FISA Amendments Act.

One could say: What are you complaining about? You are getting some improvement. You still have problems, but you are getting some improvement.

I guess my point is that we are having this debate, and we don't have it very often. We are having the debate every 3 years, and some people have tried to make this permanent, where

we would never have any debate. Even though we are only having it every 3 years, it is still uncertain whether I will be granted any amendments to this bill.

So, yes, I would like to address everything while we can. I think we ought to address section 702. I think we ought to—for goodness' sake, why won't we have some hearings on Executive Order 12333? I think they may be having them in secret, but I go back to what Senator WYDEN said earlier. I think the principles of the law could be discussed in public. We don't have to reveal how we do stuff. Do we think anybody in the world thinks we are not looking at their stuff? Why don't we explore the legality and the law of how we are doing it as opposed to leaving it unsaid and unknown in secret?

Part of our secrecy is sort of backfiring on us also because what is happening is in keeping this secret, people believe the worst. Everybody around the world believes the worst about it. Everybody around the world believes that they are having all their stuff looked at, that their emails are being looked at. So if you are a businessperson in Europe and you are trying to negotiate a secure deal—a deal where you don't want your competitors to know what you are offering to buy a certain company—I would think you probably wouldn't use American email, and I would guess that is what is happening.

American companies are starting to try to figure out a way around this, are trying to offer encryption. What does the government do? The President's administration is all over the airwaves, all over Washington, all over the place talking about how the companies are somehow evil for wanting to encrypt their data.

I saw the Secretary of the Department of Homeland Security in my committee the other day, and I said: You realize it is your fault. Is it the companies' fault that they are trying to protect their information for their customers? They are trying to make a living. It is your fault for bullying them and stealing their information and stealing all of Americans' information. We are simply reacting to the bully that you are.

Most of the issues Patrick Eddington points out in his piece are issues that we actually have amendments for that would make the bill stronger. So if there are arguments that maybe the USA FREEDOM Act could be made better—definitely reauthorizing it by itself is a big mistake, but if alternatives are going to be offered, maybe we could try to offer alternatives that make the USA FREEDOM Act better.

The other idea Patrick Eddington puts forward is that there is no bar on the government imposing backdoors being built into electronic devices. That is what we have talked about before, that the government is mandating to different companies that they have to have access to their product.

I think it is an under-discussed development that the companies are going to be more at risk for sabotage by foreign countries, foreign governments, and sabotage from hackers if they build a portal. So if the government says ''We need a portal to stick our big nose in your business and suck up all your information,'' my guess is that sophisticated hackers and sophisticated foreign governments will say that most of American software now has a flaw, and the American Government is getting into it. What do we think these people will do? They will develop programs to look for the flaws and churn through until they find our flaws.

It is the opposite of what we should be doing. We should be trying to keep foreign governments, foreign snoopers, and foreign competitors out of our stuff, including the U.S. Government, but we are doing the opposite.

There is a lot left to be desired with the USA FREEDOM Act. I try to be supportive of moving forward, but I can't support it unless we are able to incorporate some of the other ideas I think are necessary.

The people say we are just not doing enough. This week, many have come out and said: We have to collect more data. We are only collecting a third of the data. We have to get more data.

The interesting thing is that we are spending $52 billion a year on intelligence in our country—$52 billion. We are spending $10 billion in the NSA alone. It is $167 per person in the United States. I think it is hard to argue we are not doing enough already. I think the argument can be made, though, that we are doing it in such a haphazard, all-collecting, all-consuming, indiscriminate way that maybe we are not getting the best bang for our buck.

There have been many groups out there. We mentioned Electronic Frontier Foundation, TechFreedom, Liberty Coalition, GenOpportunity, Competitive Enterprise Institute, FreedomWorks—a lot of different groups from right and left that are opposed to this bulk collection of data.

There is an interesting article recently written by Anthony Romero with the ACLU, and the title of it is ''The Sun Must Go Down on the PATRIOT Act.'' In it he refers back to both of the review groups we talked about and the Privacy and Civil Liberties Oversight Board, and he says and reiterates a point that is incredibly important, that ''there was no evidence at all that the NSA's massive surveillance program had ever played a pivotal role in any investigation.''

I think we ought to be able to figure out something from this, and we ought to be able to learn that not only is there a constitutional question of this, there is also the question of whether practically it is doing anything to make us safer. If it is not making us safer, it is extraordinarily expensive and we are losing our freedom in the process. Why don't we shut it down?

Different advocacy groups for a variety of opinions have put forward the idea that I think was represented in the NAACP v. Alabama. I believe this was back in the seventies, which set forth a First Amendment claim, and this claim is that there is a vital relationship between freedom of association in privacy in one's associations. The point is that sometimes when you are protesting either for or against something that is very unpopular, sometimes you even worry about your safety. There were people who lost their lives in the freedom movement, in the civil rights movement. There were people who lost their lives. And you can understand how in those days people might have been worried for anybody to know they belonged to the NAACP or they opposed the Jim Crow laws in the South. But it was an important case because it talks about how the fact is that information can be kept private and should be kept private for fear it will chill speech, for fear it will put a damper on who people would associate with, for fear that it would put a damper on dissent, which is a fundamental aspect of a Republic.

In a letter from a couple weeks ago from some congressional leaders, they point out something that I think bears repeating. Mass surveillance, the bulk collection, harms our economy. Mass surveillance will cost the digital economy up to $180 billion in lost revenue by 2016.

We are not getting any new bad guys with this, we are abrogating privacy, and we are losing money.

The Internet companies in our country, the whole software world, the whole hardware, all of this, have been some of America's greatest triumphs, some of America's greatest ingenuity. Yet we are willing to squash all that in a battle that really is going to damage our privacy, isn't helping us in the war against terrorism, and is going to make it such that nobody in the world is going to want to buy American products. I think it is a disgrace and, once again, I don't think it is purposeful. Nobody wants to harm our companies, but I think it is just another unintended consequence—a bad policy not thought through.

The ACLU commentary on the USA FREEDOM Act has come up with some ideas of things they think would make the bill stronger. One, they say the bill could be amended to prevent surveillance of individuals with no nexus to terrorism:

> The 2015 USA FREEDOM Act would authorize the collection of records and communications identified by a ''specific term''. . . . This would stop the government from conducting indiscriminate surveillance of virtually all citizens and from engaging in narrower but still-egregious forms of abuse, like the surveillance of everyone in an entire zip code or all those who use a given communications provider, like Gmail. However, the current SST definition is still not strong enough to prevent ''bulky'' collection. . . .

This is the point I have been making, and this is something you need to be very careful about in Washington, because the minute you think you have

won a battle, secretly you have been beaten. You just don't know it yet. We may still get a reform like this and then find out we are still going to get bulky collection; that a corporation's name can be put in the specific selector term, and—so we were worried about the government giving us all of Verizon's records. Now we are just sending a warrant to Verizon that has their name in it and we are getting all of their records.

The example they put here is that you could still end up having the surveillance of everyone in the entire ZIP Code or all of those who use a given communications provider like Gmail. So Gmail is a specific term. Are we not still back where we were and have we really fixed the problem?

The ACLU goes on to say that the bill should be amended to narrow the SST definition—the selector term—to prevent this kind of bulky surveillance. The bill should also make crystal clear, consistent with the Second Circuit—which has come out since this bill was written—that section 215 cannot be used to amass Americans' records for open-ended data-mining purposes unmoored from any specific investigation.

I think this is incredibly important. The USA FREEDOM Act wants to take a step forward, but we need to make sure the ruling from the Second Circuit that has already passed, that we don't do something that either moots the case or we don't do something that actually expands the power of 215 when the court has already restricted the power of 215.

The ACLU's second recommendation is that we should include procedures to ensure that the government purges irrelevant information. Right now the bill would allow the collection of irrelevant information under 215 and other authorities without minimization procedures.

This kind of reminds me—if you want to know how much information we are grabbing up and how worried to be about it, there was an article in the Washington Post a couple of months ago, and it said the President had been minimized 1,227 times. We are collecting the President's data, all right. You can say, well, we are being fair, we are getting everybody's. For goodness' sake, we should not be collecting the President's information. In fact, you might inadvertently have somebody reading that who really shouldn't be reading the President's information. We should not be collecting the President's information. That is ridiculous. But we are minimizing the President, which means we are finding it and sort of whitening it out and hoping nobody has read it in the process.

There were earlier versions of the USA FREEDOM Act that included some of these basic protections on getting rid of or minimizing irrelevant information from bulky surveillance. This is sort of the problem. This bill started out pretty good in the House, got out of committee, got sort of eaten up on the floor, and wound up losing a lot of the better stuff that was in it.

The third recommendation is what we mentioned a few minutes ago, which is to make sure there is a strong advocacy, a special advocate; that it is a strong advocate that goes before the FISA Court. As the Second Circuit Court decision observes, adversarial judicial process is vital, especially on matters as critically important as the government's authority to spy on its citizens. This is a really important point, the adversarial judicial process.

There are some—Judge Napolitano has written on this—and I think he has made the point that without an adversarial process, you really can't even have a judicial process. If you don't have people on both sides arguing or advocating for a position, there really isn't a court. It really is not a judicial proceeding that we can recognize as finding justice. But the FISA Court only hears from one side, the government.

But the ACLU points out that these advocates participate solely at the discretion of the court and can make arguments that do not advance privacy and civil liberties.

Yet, if you are hired by the government, are you really going to be the best advocate for privacy?

The fourth suggestion that the ACLU has to make the USA FREEDOM Act better is that we should limit additional authorities that have been used to collect America's records in bulk. We now know that the government has conducted bulk surveillance not only under 215 but also under a host of other statutes, including existing administrative subpoena authorities.

For example, for two decades, up until 2013, the Drug Enforcement Agency operated a program that collected the international call records of Americans in bulk, reporting under existing administrative subpoena laws. So here is a real question: What other authorities are we operating under that are collecting bulk records? They are doing it under administrative subpoena laws. They are doing it for the DEA. I still think the more I learn about this, the more questions I have as to how many other authorities are still collecting things. I would still like to know, are they collecting all the credit card information in the country? Are they doing that under Executive authority?

Are we really living in a country now where nobody in the government questions someone when they say that under article II authority the President can do whatever he wants and that this can't even be corrected or challenged at all by Congress?

The fifth recommendation from the ACLU is to stop the government from using section 702 of FISA as a backdoor to conduct surveillance on Americans. This was one of our amendments that we also have. In fact, most of these are amendments that I would present, if we are allowed to present them, which is sort of the purpose for being here, for wearing my feet out and my voice today, is that we would like to find out, Will the leadership allow us to have amendments?

We would like to know and have an agreement that we will specifically be allowed to offer these amendments we have worked on for 6 months to a year now. We have waited for 3 years for the opportunity. We would like to know, Will leadership let us have these amendments? Will leadership allow a free and open debate over how to fix this bulk collection program?

The backdoor thing with 702 is a pretty important thing. It is collecting enormous amounts of data. Earlier today we talked about how this data, that 9 out of 10 pieces of data are not about the target, they are just incidental. I think there was one estimate that we have had 90,000 targets, but it means that we have really had 900,000 bits of information on other individuals collected, but it all just gets stuck in a database. So the database keeps growing and growing and sometimes it is intentionally so, that we want to investigate a guy here, but we don't want to ask for a warrant, so we investigate a guy overseas that we know already talks to the guy over here, and now we are really investigating Americans without a warrant. So they recommended we stop this backdoor access. This is something Senator WYDEN and I have also been in favor of as well.

Another recommendation the ACLU has is that our current laws punish individuals for providing material support to terrorists. I have no problem with that, but they have been used apparently to prosecute people seeking to provide humanitarian assistance. The USA FREEDOM Act should add an explicit intent requirement to the material support law.

There is another comment from the Sunlight Foundation by Sean Vitka, and the title is the ''USA FREEDOM Act is about to pass through the House—is it a step backwards?''

Sunlight and others have had major concerns about the USA FREEDOM Act for some time. Broadly speaking, it isn't a satisfactory level of reform given what we've learned in the past two years about government surveillance and the immense secrecy that surrounds it. Until last week, it's fair to say some considered the bill a net positive, some a net negative and that no one thought it was enough for reform.

As time has progressed, we've seen what began in 2013 as a decent, if tunnel-visioned, compromise chipped away at, including the transparency and accountability provisions . . .

I think this is an important point, because the USA FREEDOM Act started out pretty good. It got a little bit less good over time. But think about where we are right now. It passed overwhelmingly in the House. The majority in the Senate does not want it because they think it lessens the bulk collection too much. So they are going to chip away at it again. So imagine where we are going to be in the end if

that is what we are going to pass. I think it would be better to be done with bulk collection. Let's be done with bulk collection. Let's start over.

But let's not replace it with something that may end up being just as bad. The sacrifices made in the bill in order to secure these modest reforms grew more dramatic. For instance, the USA FREEDOM Act was always a threat to court challenges and may have mooted the ACLU'S tremendous court win last week, if it had passed last year. This is the point I have been making. The luckiest thing we ever got is that we did not pass the USA FREEDOM Act last year because the courts are probably going to do right now a better job than legislation.

If fact, we might be better off not passing the USA FREEDOM Act and seeing what the courts will do for us on this because there is a danger it moots the case. But there is a danger also that it is seen as actually giving justification for the program, which I guess is kind of mooting the case as well. The ruling in the appellate court could also—they are agreeing with what I just said—do more than USA FREEDOM aspired to do, because it interprets the word ''relevance'', saying it does not authorize bulk collection and that that word is not used in section 215.

So I think that is a good point, that the court is saying that the word ''relevance'' does not authorize bulk collection. So you have got bulk collecting going on, but there is no authorization from 215 on it.

Here is the question: Is USA FREEDOM going to allow bulky—perhaps bulk—collection, and do we wind up actually giving back more power to the intelligence community when we are trying to limit their power? I think we need to be very careful with what we do here.

Sunlight goes on to say—Sean Vitka:

It's unclear whether the primary goal of USA FREEDOM, the rewriting of Section 215 to stop bulk collection, is already accomplished and whether USA FREEDOM could open us all up to more secret interpretations and new venues of surveillance.

I think that is an incredibly important question. Several groups that initially supported USA FREEDOM have backed away from it. ACLU and EFF agree that the USA FREEDOM Act as it stands now is not worthy of support. I think some of these may be neutral on it, but they have backed away from some of their support. Some of the concerns that Sean Vitka talks about here are shortcomings in the USA Freedom Act. He says that it accepts the premise that mass surveillance under these programs is necessary, despite the findings of the congressional joint inquiry and the 9/11 Commission to the contrary, and also despite that the Privacy and Civil Liberties Oversight Board said it was not necessary.

Sean Vitka goes on to say that one of his other concerns is that the USA FREEDOM Act effectively continues mass surveillance under section 215 of the PATRIOT Act through the use of multiple NSA-supplied selector terms. So you could say that we are only going to do individual terms, but then you do a bunch of them. By the time we do a bunch, are we really individualizing or are we not growing it into bulk collection?

They include the following among those selection terms—ones they are worried about: the Internet protocol address or cloud source accounts of entire organizations, in contravention of the Fourth Amendment's particularized probable-cause-based warrant.

Additionally, Sunlight goes on to point out what I pointed out as well, that the term ''person'' is not defined as an individual natural person, and the bill does not alter the PATRIOT Act's original definition of person, which includes any individual, officer or employee of the Federal Government or any group, entity, association, corporation.

You know, I really feel what we could be doing back here is—we think we won. We get the USA FREEDOM Act, and then 2 years from now, we find out they are plugging the name ''Verizon'' into their selection term and they are still collecting all the records from Verizon. So I think unless you can limit this to an individual, a natural person, I think really this is one of the biggest problems we have with the USA FREEDOM Act at this point.

Sean Vitka goes on to say that there is a concern that it expands the corporate immunity. We have discussed that as well today—that by removing that companies act in good faith, we also are going to pay the companies now to do this as well.

Judge Napolitano wrote about this just the other day, May 14. He writes:

A decision last week about NSA spying by a panel of judges on the U.S. Court of Appeals in New York City sent shock waves through the government. The court ruled that a section of the PATRIOT Act that is due to expire at the end of this month, on which the government has relied as a basis for its bulk collection and acquisition of telephone data the past 14 years, does not authorize that acquisition. This may sound like legal mumbo-jumbo but it goes to the heart of the relationship between the people and their government and a free society.

The PATRIOT Act is the centerpiece of the Federal Government's false claim that by surrounding our personal liberties to it, it can somehow keep us safe. The liberty-for-safety offer has been around for millennia and was poignant at the time of the founding of the American Republic.

The Framers addressed it in the Constitution itself, where they recognized the primacy of the rights to privacy and assured against its violation by government, by intentionally forcing it to jump through some difficult hoops before it can capture our thoughts, words, or private behavior. These hoops are the requirement of a search warrant issued by a judge based on evidence called probate cause, demonstrating that it is more likely than not that the government will find what it is looking for from the person or place it is targeting. Only then may a judge issue a warrant which must specifically describe the place to be searched, or specifically identify the person or thing to be seized.

Napolitano goes on:

None of this is new. It has been at the core of our system of government since the 1790s. It is embodied in the Fourth Amendment which is the heart of the Bill of Rights. It is quintessentially American. The PATRIOT Act has purported to do away with the search warrant requirement, by employing language so intentionally vague that the government can interpret it as it wishes. Add to this the secret venue for this interpretation, the FISA court, to which the PATRIOT Act directs that NSA applications for authority to spy on Americans are to be made, and you have the totalitarian stew that we have been force fed since 2001.

Because the FISA court meets in secret, Americans did not know that the feds were spying on us all of the time and relying on their own unnatural reading of the words in the PATRIOT Act to justify it until Edward Snowden spilled the beans on his former employer nearly 2 years ago.

Here is another reason I think to question whether USA FREEDOM may be the best bill for us. There was an article in the Daily Beast by Shane Harris the other day. The title of it is '''Big Win' for Big Brother: NSA Celebrates the Bill That's Designed to Cuff Them.''

It was supposed to be the declawing of America's biggest spy service, but what no one wants to say out loud is that this is a big win for the NSA, one former top spook says.

Civil libertarians and privacy advocates were applauding yesterday after the House of Representatives overwhelmingly passed legislation to stop the NSA from collecting Americans' phone records in bulk. But they'd best not break out the bubbly.

The real big winner here is the NSA. Over at its headquarters in Fort Meade . . . intelligence officials are high-fiving, because they know things could have turned out much worse. ''What no one wants to say out loud is that this is a big win for the NSA, and a huge nothing burger for the privacy community,'' said a former senior intelligence official, one of half a dozen who spoke to The Daily Beast about the phone records program and efforts to change it.

Here's the dirty little secret that many spooks are loath to utter publicly, but have been admitting in private for the past two years: The program—

The bulk collection program—

which was exposed in documents leaked by Edward Snowden in 2013, is more trouble than it's worth.

''It's very expensive and very cumbersome,'' the former official said. It requires the agency to maintain huge databases of all Americans' landline phone calls. But it doesn't contribute many leads on terrorists. It has helped prevent few—if any—attacks. And it's nowhere near the biggest contributor of information about terrorism that ends up on the President's desk or other senior decision makers.

If, after the most significant public debate about balancing surveillance and government in a generation, this is the program that NSA has to give up, they're getting off easy. The bill that the House passed yesterday, called the USA FREEDOM Act, doesn't actually suspend the phone record program. Rather, it requires that phone companies, not the NSA, hold on to the records.

That bears repeating. At least from the author's perspective of this article, the USA FREEDOM Act does not actually suspend the phone records program. Rather, it requires the phone companies, not the NSA, to hold onto the records.

''Good! Let them take them. I'm tired of holding onto this,'' a current senior U.S. official told The Daily Beast. It requires teams of lawyers and auditors to ensure that the NSA is complying with Section 215 of the PATRIOT Act, which authorizes the program, as well as the internal regulations on how records can and cannot be used. The phone records program has become a political lightning rod, the most controversial of all of the classified operations that Snowden exposed. If NSA can still get access to the records but not have to hold on to them itself, all the better, the senior official said.

''It's a big win for common sense and for the country,'' Joel Brenner, the NSA's former inspector general, told The Daily Beast. ''NSA can get to do what it needs to do with a higher level of scrutiny and a little more trouble, but it can still do what it needs to do. At the same time, the government is not going to hold the bulk metadata of the American people.''

''The NSA is coming out of this unscathed,'' said the former official. If the USA FREEDOM Act passes the Senate—which is not a foregone conclusion—it will be signed by President Obama and create a more efficient and comprehensive tool for the NSA. That's because under the current regime, only the logs of landline calls are kept. But in the future, the NSA will be able to get the cell phone records from the companies, too.

That bears repeating. This week, everybody was talking about and saying: We are not getting enough. The people who want more surveillance are saying: We are not getting enough. We are only getting the landlines. We are only getting one-third of all of the records. Here is the allegation: Under the USA FREEDOM Act, they are going to get many more records. They are going to have access to all cell phone records. The question is, Are we going to really have less bulk collection or maybe the same?

There is another irony—this is still according to Shane Harris at the Daily Beast:

And there's another irony. Before the Snowden leaks, the NSA was already looking for alternatives to storing huge amounts of phone records in the agency's computers. And one of the ideas officials considered was asking Congress to require phone companies to hang onto that information for several years. The idea died, though, because NSA leaders thought that Congress would never agree, [current and former officials have said].

It is kind of ironic that the NSA already thought of this idea, didn't think we would be silly enough to do it, and now it is being promoted as the reform, that the reform is going to be what the NSA actually wanted in the first place.

Suddenly, the NSA found itself under orders from the White House—this is after the revelations from Snowden—to come up with some alternative to the phone records program that preserved it, but also put more checks on how the records are used. Continuing:

That's when General Keith Alexander, then the agency's director, dusted the old idea off the shelf and promoted it on Capitol Hill.

That is right.

''The USA Freedom Act''—the supposed reining in of the NSA—''was literally born from Alexander,'' the former official said.

So the NSA effectively got what it wanted. But that doesn't mean privacy activists got nothing, or that they'd count the law's passage as a loss.

There is a large coalition, 50 maybe 100 different groups, that have all been in favor of trying to end the bulk coalition. We have been working together on this. We have mentioned the Electronic Frontier Foundation, the Electronic Privacy Information Center, the ACLU, FreedomWorks, Bill of Rights Defense Committee, The Constitution Project—across the spectrum, right and left.

The question is on encryption, whether the government will be able to break through the encryption that businesses are trying to devise to keep them out.

There is an article in the New York Times, though this is from 1½ years ago, saying:

The National Security Agency is winning its long-running secret war on encryption, using supercomputers, technical trickery, court orders and behind-the-scenes persuasion to undermine the major tools protecting the privacy of everyday communications in an Internet age. . . . The agency has circumvented or cracked much of the encryption, or digital scrambling, that guards global commerce and banking systems.

Continuing:

''For the past decade, N.S.A. has led an aggressive, multipronged effort to break widely used Internet encryption technologies,'' said a 2010 memo describing a briefing about N.S.A. accomplishments for employees of its British counterpart.

I think the encryption thing is a big deal and will continue to be something that is a bone of contention between the tech industry and the government.

With regard to what we do in order to protect ourselves from the government, I think encryption will continue to take off.

Ms. CANTWELL. Will the Senator yield for a question without losing the floor?

Mr. PAUL. Yes, without losing the floor.

Ms. CANTWELL. I am so pleased to hear my colleague talk about encryption technology because it is clearly something very important in this privacy debate. I hear with interest, as you cite that article, that one of the key things about the encryption debate is several years ago, those involved at the highest levels of government basically decided that instead of being able to break the encryption code, that maybe it would be a good idea to put an actual government chip in every computer. That was called the clipper chip. And the notion was that then the NSA and other people wouldn't have to worry about breaking the code. They would just have a government backdoor to our technology.

In fact, there were many people—I kept saying you are going to say instead of ''Intel inside'' you are going to say ''U.S. Government inside'' of every computer. Is that what we were trying to do?

So the clipper chip battle in the 1990s was a very famous debate about exactly how we were going to proceed on making sure that we were guaranteeing privacy to U.S. citizens. So clearly we were successful in defeating the clipper chip, but it took a lot of time and a lot of energy.

So I thank my colleague for continuing to fight on these important issues. You mentioned many of the organizations that were also involved in that battle. Are you saying that now you believe there are new government efforts to thwart our encryption capabilities?

Mr. PAUL. I thank the Senator for that question. I think there is a new sort of political rhetoric attacking encryption, but I think there will be more efforts. This article is from about a year ago, but I think what is going to happen from this—and what I have been hearing from people—is there is ultimately going to be encryption that is not housed by any company. They are going to have encryption—the only way to get to the encryption is through the individual. This is being done because the government has overplayed their hand. Because the government has been such a bully on this, companies are going to continue to get further and further away. What they are going to do is the encryption will only be in control of the user. When that happens, the government is not getting any information at all.

So they are taking a tool that probably has been useful to a certain degree—and I don't mind if we are doing it through warrants and specific extradition—but I think they are pushing companies so hard that I think encryption is going to be put in a place where even the company cannot get to it.

Ms. CANTWELL. If I could ask another question of the Senator without losing him the right to the floor, this is a debate, as you were just saying. I think I understand your premises that there are three legs to the stool. There is a Federal Government that wants access, but they should go through the judiciary system, and there are separately the entities that have the actual records, which are the telecom companies, and that keeping those separate, not blending them, not actually giving the telephone companies the right to keep all the data and information of individuals is a critical distinction.

You were just describing, I think I understood, that in this case the government was just saying: Oh, keep all of that data and information, which is not exactly what the phone companies had acquired or kept for any business purposes, but it just puts personal data and information at risk.

Am I understanding that correctly?

Mr. PAUL. I think I understand that question. The phone companies aren't excited about it, but they will do it if they are paid and told to do it, basically. But the phone companies, I don't know. I don't how much objection they have had to the current system and the new system. They probably don't want to have to hold all this. There are rumors that the people who want more will require them to.

I don't think, under the current USA FREEDOM Act, they are going to be required to hold the records, but they are going to be encouraged to and paid to hold the records.

So I think the real question is, Is the USA FREEDOM an improvement or are we just going to have bulk collection done by another name, with phone companies holding the records. That is what my fear is.

Ms. CANTWELL. I would say to the Senator or ask the Senator, in this debate, I think you raised an important question, if I understand it correctly, which is, How much will the U.S. Government spy on U.S. citizens? And that, combined with the question you were asking to the changes to the PATRIOT Act and the accumulation of business records, is when that individual could be a U.S. citizen.

For example, you and I could be somewhere—you could be an individual of interest to one of these Federal agencies, but just because I happen to have a cup of coffee with you, now all of a sudden all of my business records, all of my personal information could be under investigation by the U.S. Government, and I wouldn't even know about it; is that the Senator's understanding?

Mr. PAUL. Yes, I think that is a big concern. There are a couple of things that I think are alarming. Even two domestic emails could be routed through a server in another country, and they could use that to actually get access to two Americans who are communicating from New Jersey to South Carolina.

But also I think as Senator WYDEN has pointed out, it often or sometimes sounds like we are targeting a foreigner simply to get access to an American.

Does the Senator have a question in that vein?

Mr. WYDEN. I think my colleague has asked very good questions, and it is my intention to rejoin him here in a few minutes.

But I think it is important—and I would be interested in your reaction—do people understand what is at stake here?

We are talking about section 702 of the FISA Act and that involves a very important issue of making sure, when there is somebody dangerous overseas, that we can, in effect, go up on that person to get that kind of information that we have to have.

But what we are seeing increasingly—and we have actually put it on our Web site—Americans are being swept up in those searches and their emails are being read.

And what is especially troubling to me—and I would be interested in my colleague's views with respect to this backdoor search loophole—this is a problem today, but it is only going to be a growing problem in the days ahead because increasingly communications systems around the globe are merging. They are becoming integrated. It is not as if the communications systems stop at a nation's border.

So I think this is a particularly important issue. As we have talked about, the amendments we are interested in offering, I think this is a particularly important bipartisan effort. I don't think people have known a whole lot about how the backdoor search loophole takes place.

We have supported section 702, because when there are dangerous threats overseas, we want our government to be able to ensure it is taking steps to protect the American people. But having more and more Americans swept up in these searches, particularly the changing nature of a communications system being integrated, strikes me as a very big problem.

I am going to be back to join my colleague very shortly, but I would be very interested in my colleague's thoughts on the importance of closing this backdoor search loophole.

We have tried in the past. I think that now, particularly, when we have had a chance to walk this through in terms of what it really means, my hope is we can finally close it.

What would my colleague's reaction be with respect to the importance of this?

Mr. PAUL. I think it is a great question, and some are saying that through the backdoor of abusing 702, that if there were 90,000 people targeted last year through using this 702, that we collected the information on 900,000 individuals who were incidental and were not the target at all. So for every one byte of data we are collecting on somebody, we are collecting nine bytes of data on somebody who is not the target.

But that becomes part of this enormous data center that we are building. And many of those people are Americans who were getting through the backdoor.

But also why I am here today is I want the leadership to allow us to have our amendments. That is one of our amendments. That is a joint amendment we have worked on. We have been working on these things for months. This only comes up every 3 years. Should they not give us a day to have a vote on some of these amendments?

Mr. WYDEN. I thank my colleague. I will be back to rejoin him in a few minutes. I do so appreciate my colleague's stamina and passion.

I went to school on a basketball scholarship, and I think I have been able to stay in a little bit of shape, but my friend from Kentucky has sure shown both his commitment and his stamina. I am going to have to take a brief meeting on one of the issues pending, but I intend to join my colleague here before too long.

I thank the Senator. I will have additional questions at that time.

I return the floor to Senator PAUL.

Mr. PAUL. I thank the Senator for that question.

In the New York Times, in March of 2014, Clara Miller writes about some of the costs on U.S. tech companies that are occurring from some of this:

Microsoft has lost customers, including the government of Brazil.

IBM is spending more than a billion dollars to build data centers overseas to reassure foreign customers that their information is safe from the prying eyes in the United States government.

And tech companies abroad, from Europe to South America, say they are gaining customers that are shunning U.S. providers, suspicious because of the revelations by Edward J. Snowden that tied these providers to the National Security Agency's vast surveillance program.

The estimates are in the billions of dollars lost to American companies.

Even as Washington grapples with the diplomatic and political fallout of Mr. Snowden's leaks, the more urgent issue, companies and analysts say, is economic. Tech executives, including Mark Zuckerberg of Facebook, raised the issue when they went to the White House...for a meting with President Obama.

It is impossible to see now the full economic ramifications of the spying disclosures—in part because most companies are locked in multiyear contracts—but the pieces are beginning to add up as businesses question the trustworthiness of American technology products.

The confirmation hearing last week for the new NSA chief, the video appearance of Mr. Snowden at a technology conference in Texas and the drip of new details about government spying have kept attention focused on an issue that many tech executives hoped would go away.

Despite the tech companies' assertions that they provide information on their customers only when required under law—and not knowingly through a back door—the perception that they enabled the spying program has lingered. ''It's clear to every single tech company that this is affecting their bottom line,'' said Daniel Castro, a senior analyst at the Information Technology and Innovation Foundation, who predicted that the United States cloud computing industry would lose $35 billion by 2016.

Forester Research, a technology research firm, said the losses could be as high as $180 billion, or 25 percent of industry revenue, based on the size of the cloud computing, web hosting and outsourcing markets and the worst case for damages.

The business effect of the disclosures about the NSA is felt most in the daily conversations between tech companies with products to pitch and their wary customers. The topic of the surveillance, which rarely came up before, is now ''the new normal'' in these conversations, as one tech company executive described it. ''We're hearing from customers, especially global enterprise customers, that they care more than ever about where their content is stored and how it is used and secured,'' said John E. Frank, deputy general counsel at Microsoft, which has been publicizing that it allows customers to store their data in Microsoft data centers in certain countries.

Isn't that sad? Isn't it sad that a great American company is having to advertise that they are storing their information in other countries because in America we are not protecting your privacy? Isn't that sad, that a great American company, in order to stay in business, is having to advertise to their customers that they are keeping their information in another country?

At the same time, Mr. Castro said, companies say they believe the Federal Government is only making a bad situation worse. ''Most of the companies in this space are very frustrated because there hasn't been any kind of response that's made it so they can go back to their customers and say, 'See, this is what's different now, you can trust us again,''' he said.

In some cases, that has meant forgoing potential revenue.

Though it is hard to quantify missed opportunities, American businesses are being left off some requests for proposals from foreign customers that previously would have included them, said James Staten, a cloud computing analyst at Forester who has read clients' requests for proposals. There are German companies, Mr. Staten said, ''explicitly not inviting certain American companies to join.'' He added, ''It's like, 'Well, the very best vendor to do this is IBM, and you didn't invite them.'''

The result has been a boon for foreign countries.

Runbox, a Norwegian email service that markets itself as an alternative to American services like Gmail and says it does not comply with foreign court orders seeking personal information, reported a 34 percent annual increase in customers after news of the NSA surveillance.

Brazil and the European Union, which had used American undersea cables for intercontinental communication, last month decided to build their own cables between Brazil and Portugal, and gave the contract to Brazilian and Spanish companies. Brazil also announced plans to abandon Microsoft Outlook for its own email system that uses Brazilian data centers.

Anybody still think this bulk collection is a good idea for America?

Mark J. Barrenechea, chief executor of OpenText, Canada's largest software company, said an anti-American attitude took root after the passage of the PATRIOT Act, the counterterrorism law passed after 9/11 that expanded the government's surveillance powers.

This is all coming from a New York Times article by Claire Miller from March of 2014.

But ''the volume of the discussion has risen significantly post-Snowden,'' he said. For instance, after the NSA surveillance was revealed, one of OpenText's clients, a global steel manufacturer based in Britain, demanded that its data not cross U.S. orders. ''Issues like privacy are more important than finding the cheapest price,'' said Matthias Kunisch, a German software executive who spurned U.S. cloud computing providers for Deutsche Telekom. ''Because of Snowden, our customers have the perception that American companies have connections to the NSA.''

Security analysts say that ultimately the fallout from Mr. Snowden's revelations could mimic what happened to Huawei, the Chinese technology and telecommunications company, which was forced to abandon major acquisitions and contracts when American lawmakers claimed that the company's products contained a backdoor for the People's Liberation Army of China—even though this claim was never definitively verified.

Silicon Valley companies have complained to government officials that Federal actions are hurting American technology businesses. But companies fall silent when it comes to specifics about economic harm, whether to avoid frightening shareholders or because it is too early to produce concrete evidence.

''The companies need to keep the priority on the government to do something about it, but they don't have the evidence to go to the government and say billions of dollars are not coming to this country,'' Mr. Staten said.

Some American companies say the business hit has been minor at most. John T. Chambers, the chief executive of Cisco Systems, said in an interview that the NSA disclosures had not affected Cisco's sales ''in a major way.'' Although deals in Europe and Asia have been slower to close, he said, they are still being completed—an experience echoed by other . . . companies.

Security analysts say tech companies have collectively spent millions and possibly billions of dollars adding state-of-the-art encryption features to consumer services, like Google search and Microsoft Outlook, and to the cables that link data centers at Google, Yahoo and other companies.

IBM said in January that it would spend $1.2 billion to build 15 new data centers, including in London, Hong Kong, and Sidney, Australia, to lure foreign customers that are sensitive about the location of their data.

Isn't it sad that companies want to avoid being in America? They want to avoid having their information cross our borders.

Salesforce.com announced similar plans this month.

Germany and Brazil, where it was revealed that the NSA spied on government leaders, have been particularly adversarial towards American companies and the government. Lawmakers, including in Germany, are considering legislation that would make it costly or even technically impossible for American tech companies to operate inside their borders.

Yet some government officials say laws like this could have a motive other than protecting privacy. Shutting out American companies ''means more business for local companies,'' Richard A. Clarke, a former White House counterterrorism adviser, said last month.

This is an article that was published on NPR's Web site. The headline is ''As Congress Haggles over Patriot Act, We Answer 6 Basic Questions.''

Quoting from the article:

A key section of the Patriot Act—a part of the law the White House uses to conduct mass surveillance on the call records of Americans—is set to expire June 1. That leaves legislators with a big decision to make: Rewrite the statute to outlaw or modify the practice or extend the statute and let the National Security Agency continue with its work.

I think it will be interesting to see how the debate ultimately plays out. You have what has been passed in the House—the USA FREEDOM Act—and passed in the House overwhelmingly. The majority here probably believes we are not collecting enough bulk data. They would prefer to collect more bulk phone data and aren't too concerned that any privacy interests are being trampled upon.

So you have two sort of contrary opinions in wondering which direction we go. Some who want more collection of data and say we are not collecting enough data say they might live with it if we add in and force the phone companies to keep the data. Right now, the bill doesn't have them keeping the data. But the concern for some of those of us who believe in privacy is that we may just be trading one form of bulk collection for another, that we may be trading a system where the government collects the data and there is a bulk collection for a system where the phone companies have the bulk collection but you are still having the same sort of collection of data.

My concern with the USA FREEDOM Act is that it still, I believe, may allow for a nonspecific warrant. It still may allow for bulk collection in the sense that it says you have to select a specific person, but the specific person can be a corporation. So if you still have a corporation—the problem is that if we put the name ''Verizon'' in and you are getting all of Verizon's customers and the only difference is the phone company is holding the information and then divulging it versus the government holding it, I am not so sure we have had so much of an improvement.

Some will say we just need to be safe, we just need to do whatever it takes, that it doesn't matter if we give up any kinds of basic freedoms or privacy in the process. But I think we give up on who we are as a people if we say that basically, at all cost, regardless of what it takes, we are going to do this to keep ourselves safe.

The thing is that even the President's privacy commission and the President's review commission—two independent, nonpartisan bodies—ended up saying that they didn't think anybody was independently captured, that there was no unique information that was actually gotten from either of these programs, that the bulk collection of data hadn't made us safer but it has infringed upon our privacy.

I think if we don't have a significant debate on this, if we continue to say ''Well, we are up against a deadline, and because there is a deadline, we don't have time for amendments,'' I think we run a real risk with the American people. Congress has about a 10-percent approval rating right now, and some argue that might be a little bit high considering how great a job we are doing—a 10-percent approval rating.

The vast majority of the American people think we have gone too far in the bulk collection of records. In the ACLU survey we looked at a little bit earlier, in the age group between 19 to 39, over 80 percent of people think we have gone too far and we are not protecting privacy.

(Mr. SCOTT assumed the Chair.)

We just read an article from the New York Times in which they talk about what kind of business is potentially being lost because people don't want

American products. I think it is kind of sad. Not only do they not want their data held in a center in our country, they don't want their data crossing into our country.

I don't think we have to be that fearful of terrorism that we have to give up who we are in the process.

I have met some of our young soldiers who have come back with missing limbs. I have met the parents of some who have died. And to a person, they say they were fighting for our Bill of Rights and they were fighting for our Constitution. It is difficult for me to understand how we can take into account the sacrifice they made in war and at the same time, while we are here safe at home, we can't even protect the documents they are fighting for.

I see no reason why we can't rely on the Constitution. I see no reason why we can't rely on traditional warrants. Warrants are not hard to get. Warrants are actually quite easy to get. Warrants are, if anything, very easy to get. On the FISA Court, turning down a warrant is almost nonexistent. So I see no reason why we can't try using the Constitution for a while.

I am concerned that the problem is bigger than just what we are talking about today. We are talking about the bulk collection of records supposedly under section 215 of the PATRIOT Act. If we stop that, how much have we stopped? How much is still in existence? How much are we still doing through other venues?

I think probably the most alarming thing we have come across as I have been talking today is the idea that some people believe the President has inherent powers that are not subject to Congress. That, to me, is very alarming.

It also means that I think that because this opinion persists within the executive branch, there are in all likelihood many programs like the bulk collection of data—many programs that we don't know about, some that we have heard about. It is still not clear to me whether the Stellar Wind Program is completely gone, which involves more than just telephone data, email conversations, computer addresses, and credit cards. What is the government collecting? How much is being collected and under what authority?

It does concern me that there are people—some of them elected officials—who believe in the inherent powers of the Presidency that cannot be challenged even by Congress. We have a lot of work if that is really what we are up against.

I think it would be a big step forward if we do something about the bulk collection of data. But I think, given the court case, it is concerning to me that we might actually make the court case or the future of it moot and that we actually could make things worse. It wouldn't be the first time we have made things worse, thinking we were fixing things and made it worse.

From the opinion of the Second Circuit Court, here are some quotes.

The court writes:

> That telephone metadata do not directly reveal the content of telephone calls does not vitiate the privacy concerns arising out of the government's bulk collection of such data. . . . the startling amount of detailed information metadata can reveal, information that could traditionally only be obtained by examining the contents. . . .

I think this is a good point because many people want to downplay what metadata is or what you can determine from it. But here is the court acknowledging that you may actually get more detailed information from metadata than what you once got from obtaining the content.

When we think about how true this is, think about if someone were just going to come into your house and take your papers. What could they find? How many people even have personal letters anymore? People don't have anything on paper that is personal at all. A lot of people pay their bills online. But it is amazing, if you put the compilation of all the metadata together, what you can determine.

Remember that a high-ranking intelligence official said that we kill people based on metadata. I presume he is talking about foreigners. But if we are killing people based on metadata, the assumption is that they can get an enormous amount of information from metadata, and we should be very careful about releasing this.

They give an example of the sort of metadata and what it can determine:

> For example, a call to a single-purpose telephone number such as a ''hotline'' might reveal that an individual is: a victim of domestic violence or rape; a veteran; suffering from an addiction of one type or another; contemplating suicide; or reporting a crime.
>
> Metadata can reveal civil, political, or religious affiliations; they can also reveal an individual's social status, or whether and when he or she is involved in intimate relationships.
>
> The more metadata the government collects and analyzes, furthermore, the greater the capacity for such metadata to reveal ever more private and previously unascertainable information about individuals.

That is sort of interesting also about metadata. We have so much online and so much information on our phones that you could probably be in someone's house for a month and never find that in paper because so much of our lives revolve through the phone, through things we order and phone calls and all of that, that in the old days what could have been gotten through someone's castle, through someone's actual papers in their house, I think pales in comparison to what you can get simply through metadata even without content.

They make another point, too:

> Finally, as appellants . . . point out, in today's technologically based world, it is virtually impossible for an ordinary citizen to avoid creating metadata about himself [or herself] on a regular basis simply by conducting his ordinary affairs.
>
> The order thus requires Verizon to produce call detail records every day on all telephone calls made through its systems or using its service where one or both ends of the phone call are located in the United States.

It is hard for me to believe that there are people who don't understand that what we are talking about here is a general warrant. This is what we fought the Revolution over. This is, as John Adams said, the spark that led to the Revolution. The spark that led to the Revolution was the whole worry and concern, one, that soldiers were writing the warrants, and the other concern was that in writing the warrants, they weren't specific to anyone, they were being written in a general fashion, and that by writing them generally so, there could be an injustice in having an entire group who ends up being subject to a warrant that is not specific.

From the appellate court, we also hear that the metadata has a reach far beyond almost imagination.

In the article ''As Congress Haggles over Patriot Act, We Answer 6 Basic Questions,'' which was published on npr.org, there are several questions they ask about the PATRIOT Act debate.

Most of the talk has been about telephone surveillance, but the question is this:

> What about the NSA's surveillance of email and other Internet activities?
>
> This congressional debate has nothing to do with any of NSA's surveillance Internet activity.
>
> That's mostly because of the fact that those programs are authorized by different laws.
>
> The PRISM program, for example, which collects a vast amount of Internet data . . . is covered under section 702 of the FISA Amendments Act.

Some have said that the PRISM Program probably is collecting more information in many ways, maybe even dwarfing the bulk collection of the phone records. So if we don't address section 702 in this debate, this is also what we were talking about earlier, is the backdoor, the ability to say: Well, we are investigating someone in a foreign country, but really they are trying to get access to someone in our country through the backdoor. If we don't address this, we may well not be addressing a significant part of the problem.

This is one of the other questions:

> Is there anything else in the House bill we should know about?
>
> The bill [the USA FREEDOM Act] lifts the secrecy surrounding key decisions made by the secret Foreign Intelligence Surveillance Court. Going forward, some will be made public.

I think this is a step in the right direction. There are a lot of legal decisions, and I think we can discuss the pros and cons of the legal decision without having to know the specific details. I think Senator WYDEN made a good point on this earlier when he said that it is not the operational details we need to know, but when we are questioning and debating the law, there is

no reason why that shouldn't be public knowledge.

One of the reasons we would like to see the court rulings, too, is that the FISA Court found bulk data collection constitutional. I still find that somewhat inconceivable, that a court that is anything less than a rubberstamp could find it somehow reasonable to say that collecting all of our records in advance really is relevant to an investigation. I think it is a pretty significant point that they are not going to query the data until after they get it. So there is no investigation until they have already collected the data.

The other point is that when they say it is relevant, is anybody really determining that arguing one way or the other or do we just accept what the NSA says, that the data is relevant?

Nobody knows what will come of this debate. My hope in going on all day with this debate and trying to force the issue is to try to allow for some votes on some amendments to this. We shouldn't have just an up-or-down vote on whether to extend the PATRIOT Act. I think that when we have 80 percent of the population in some cases but at least two-thirds of the entire population saying that the bulk collection of all of our phone records all of the time without a warrant is something that has gone too far and needs to stop, it is an insult to the American people to think that we are not going to have any vote at all, that we would just have a vote up or down on extending this.

I think we really do need to have a vote, and the vote needs to be on many different alternatives. It shouldn't just be on one alternative. It needs to be on section 702 and the FISA amendments. It should be on a variety of things that could make this better—whether FBI agents should be able to write their own warrants or whether they should be signed by judges. There are a variety of things we need to be talking about. The Senate could simply take up the House bill and pass the House bill, but I think that is unlikely.

This is an interesting article from The Boston Globe, a while back. It says: ''What your metadata says about you: From MIT's Cesar Hidalgo, a new window on what your email habits reveal.''

The article is written by Abraham Rieseman.

As recently as a few weeks ago, ''metadata'' was an obscure term known mainly to techies and academics. Broadly defined, metadata is data about other data. For the phone company, it might be the time and length of your calls, but not the conversation itself; in the context of email, it means information such as the sender and recipients of a message—basically, everything except what the message actually says.

We spoke earlier about the suspicious activity reports. These are reports that the government requires that banks send in. It adds a cost to your banking, and it is a pretty significant intrusion into the banking affairs and also into an individual's affairs.

This is an article that was written by the ACLU about suspicious activity reports.

Law enforcement agencies have long collected information about their routine interactions with members of the public. Sometimes called ''field interrogation reports'' or ''stop and frisk records,'' this documentation, on the one hand, provides a measure of accountability over police activity. But it also creates an opportunity for police to collect the personal data of innocent people and put it into criminal intelligence files with little or no evidence of wrongdoing. As police records increasingly become automated, law enforcement and intelligence agencies are increasingly seeking to mine this data.

The Supreme Court established ''reasonable suspicion'' as the standard for police stops in Terry v. Ohio in 1968. This standard required suspicions supported by articulable facts suggesting criminal activity was afoot . . .

In the suspicious activity reports, though, these kinds of programs threaten this reasonable time-tested law enforcement standard by encouraging the police and the public to report behaviors that do not rise to reasonable suspicion. So it is one thing to say that someone has done something that rises to reasonable suspicion, but it is another to say that activity that could be perfectly normal, like withdrawing $1,000 from the bank or putting $1,000 in the bank, somehow is suspicion of a crime that we should be investigating.

A lot of this stuff has gotten really, really out of control. It is one of the things where actually the newspapers have done a pretty good job of reporting some of the stuff—not necessarily the suspicious activity reports but on some of the other confiscations of people's assets without really evidence of a crime but maybe evidence that they have cash.

You can be driving down the road in DC and make an unsafe lane change and the government asks you if you have money. You then find that the government takes it or the government says: Well, you have $2,000. We will let you keep $1,000 if you sign a statement saying that you will not sue us to get the $1,000 back.

Believe it or not, that is stuff that is still happening in our country. It is called civil asset forfeiture. To make it worse, we actually give a perverse incentive. We say to the local officials that if you capture money from people, we will give you a percentage of it—so the more you take, the more you get.

Some people have shown that people actually go after things that are paid off. There was a motel in New Jersey, the Motel Caswell. Local officials decided they would go after it because, they said, there had been some drug dealings at the motel. It turned out there were 6 people in the motel selling drugs out of 180,000 visits or something ridiculous.

It turned out there were other hotels that had a higher percentage of drug busts done at the hotel, but they owed money and the Motel Caswell was completely paid off. It may have been part of the decisionmaking process, because when the government came and seized the hotel for illegal activity, they took the hotel and went sell it, but it has a lien against it. The bank owns it, and you do not get to sell it very easily. It was paid off. They were going to sell it. It is a $1.5 million hotel. And then, I guess, the local police forces would benefit by that.

It is not just with our records that there is a problem. It is also with the concern for how we adjudicate justice in our country. As we see this moving forward, I think we need to be worried about not only the way our records are collected, but we need to be concerned about justice in general.

As I have traveled around the country, one of the things I have seen is what I call an undercurrent of unease in our country. I traveled to Ferguson. I have traveled to Detroit. I have been to Chicago. I have been to most of our major cities, and I have also been to some of the places where there has been this anger.

I think people are angry because they do not feel that government is treating them justly. People do not like to be treated arbitrarily. In fact, there are some who have given the definition of what is acceptable, what is good government and what is bad government, what is good law and what is bad law, what is just and what is unjust. But whether it is arbitrary or not, Hyack in ''The Road to Serfdom'' talks about that arbitrariness, not having the predictability of knowing what the law will do. That the law does not do the same thing to all individuals is a definition of the injustice that causes people to be unhappy about the way their government treats them.

My fear is that this arbitrary nature of collecting bulk records, of collecting all of our records without a significant warrant—the problem here is going to be something that adds on to a sense of unease that is in our cities and in our country at-large. What happens is that everybody is not treated exactly equal. People do not have the same resources to try to escape the clutches of Big Brother when either data or information is used against them.

One of the little-noticed sections in the USA FREEDOM Act deals with the safety of maritime navigation and nuclear terrorists and conventions implementation. Interestingly, there is a provision somehow in this for civil forfeiture. But I think the biggest problem with civil forfeiture is that we allow it to occur without a conviction. I think no one should have their possessions taken from them. I think you should be innocent until proven guilty.

I see that the Senator from Connecticut has a question. I would be happy to entertain a question without losing the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I thank my colleague from Kentucky for giving me the opportunity to ask a

question. In the preface to that question, I would like to make a couple of remarks if he will yield to me for that purpose.

My colleague from Kentucky has taken the floor tonight in the highest traditions of the Senate to make a point that should be meaningful to all of us who care about our democracy. My colleagues, including the Senator from Kentucky, have made a number of important points about the dangers of mass surveillance and the harms caused by the bulk collection of Americans' data.

I agree with those who have pointed out that the USA FREEDOM Act is a strong compromise solution for protecting Americans' freedom and security at the same time as striking a balance between preserving our security and protecting our precious rights.

I want to highlight for the Senator from Kentucky, in his very insightful remarks, as well as for my colleagues and others who are interested in this topic, a particular part of that legislation—the provisions that deal with the adversarial process in the FISA Court.

The bulk collection program is a powerful example of why we need a stronger adversarial process. We know that bulk metadata collection is unnecessary. The President's own review group has made that clear. We also know that bulk metadata collection is un-American. This country was founded by people who rightly abhorred the general warrant, and no general warrant in our history has swept up as much information about innocent Americans as the orders permitting and enabling bulk collection.

Last week, the Second Circuit Court of Appeals held that bulk collection is also unauthorized by the law. More than 9 years after the government began bulk collection, we are finally told by the highest court to consider the question that the bulk collection program was never authorized by Congress.

How do we get here? How do we arrive at a place where one of the most respected courts of appeals in the United States says that the executive branch of our government has been collecting data on innocent Americans without legal authority to do so—in fact, breaking the law by invading Americans' privacy?

We got here because the FISA Court failed its most crucial test. In May of 2006, the FISA Court was asked whether the Federal Government could collect phone records of potentially every single American. The argument hinged on the word ''relevance'' in the statute. Under the statute, the Federal Government can collect relevant information. The court had to decide whether ''relevant information'' means all information.

That does not strike me as a difficult question. Does ''relevant information'' mean all information? It did not strike the Second Circuit Court of Appeals as a difficult question either.

The Second Circuit held that the Federal Government's interpretation is ''unprecedented and unwarranted.'' Those are strong words for a court normally extraordinarily reserved and understated in its characterization of illegality by the executive branch. But the court said unequivocally and emphatically that the Government was breaking the law.

Never before in the history of the Nation had such a bizarre interpretation been entertained. At the very least, you would have thought the FISA Court would recognize that its May 2006 decision was important.

If this question had gone to a regular article III court, it would have been immediately recognized as a momentous decision, permitting bulk collection of data on every American. Litigants on both sides would have, in effect, pulled out all the stops in their arguments. Yet not only did the FISA Court get the question wrong in May of 2006, it appears not even to have spotted the issue, not even to have raised it and addressed it in its opinion. Of course, nobody knew it at the time because the opinion itself was kept secret, as were all of the proceedings on this issue.

The FISA Court upheld the government's bulk collection program, and it did so without even writing an opinion explaining its legal reasoning. Not until the program was made public roughly 8 years later was an opinion written, and every opinion released so far has omitted key issues or ignored key precedent.

If the court had written an opinion, at least Congress would have quickly known what the court had done, not to mention the American people would have known what the court had done, but the court wrote nothing. It chose to be silent and secret, and apparently it believed this issue merited no notice to the Congress. A court that could get such an important question so disastrously and desperately wrong is fundamentally broken.

Let me be clear. I do not mean to denigrate the judges of the FISA Court. Any judge, no matter how wise and well attuned to legal issues, needs to hear both sides of an argument in order to avoid mistakes. Courts make better decisions when they hear both sides.

In fact, during a hearing on this issue in the Senate Judiciary Committee, I had the opportunity to ask one of the Nation's foremost jurists whether she could do her job without hearing from both sides of an argument, and she was quite clear that she could not. Adversarial briefing, she explained, is essential to good decisionmaking.

We know as much from our own everyday lives that we make better decisions when we know the argument against what we are going to do, what we are going to think, and what we are going to say. It is the genius of the American system of jurisprudence that judges listen to both sides in open court before they make a decision. Their rulings are public, and they themselves are evaluated and judged.

Nine years after the FISA Court's ruling in May of 2006, we continue to wrestle with the impact of the court's grievous, egregious error, but we cannot simply fix the mistake without fixing the court. We cannot fix the system without remedying the process because that process is so broken, it will make more mistakes—not only predictable mistakes but inevitable mistakes.

As technology evolves, we cannot say with certainty what the next big privacy issue will be. In 2006, the FISA Court decided whether the government can collect all of our phone records. In 2020, the government will have some new means of surveillance, and they will want to try it. In 2030, we will have another.

We need a FISA Court that we can trust to get the question right. Trust, confidence, and the integrity of the judicial system that authorizes the surveillance of Americans' private lives is at issue here.

We need a FISA Court that operates transparently, openly, and has accountability. A court that operates in secret and hears only the views of the government and faces only minimal appellate reviews cannot be trusted to pass the next big test.

The USA FREEDOM Act would fix this systemic problem. It would demand, under certain circumstances, that the FISA Court hear from both sides of the issue and explain why it is making a decision and also explain why it has decided not to hear both sides if it chooses to do so. That would bring transparency to the FISA Court decision, requiring them to be released unless there is good reason not to release them. It preserves the confidentiality of the court where necessary, but it also protects the fundamental, deeply rooted sense of American justice that an adversarial, open process is important—indeed, essential—to democracy. And it would provide some appellate review, some form of review by an appellate court so that if mistakes are made, they are more likely to be caught and stopped before they result in fundamental invasion of private rights.

In short, the USA FREEDOM Act will make the FISA Court look more like the courts Americans deal with in other walks of life, more like the courts they know when they are litigants, when they are spectators, and more like the courts our Founders anticipated.

What would they have thought about a court that hears cases in secret, makes secret decisions, operates in secret, and issues secret rulings? They would get it wrong. They would have thought that that sounds a lot like the Star Chamber, that sounds a lot like the so-called courts that caused our rebellion.

This change will help ensure that we are not back in this Chamber 9 years from now debating the next mass surveillance program that started without

Congress actually authorizing it, as did metadata collection. It will help ensure that strictures of our Constitution are obeyed in spirit and letter. It will help ensure that programs designed to keep Americans safe can command the respect and trust they need to be effective. We need those programs. National security must be preserved and protected, but we need not sacrifice fundamental rights in the process.

Unless and until this essential reform is enacted, along with the other essential reforms contained in the USA FREEDOM Act, I will oppose any reauthorization of section 215.

The question that I ask my colleague from Kentucky and the point that I think he has made so powerfully and eloquently relates to this essential feature of our American jurisprudence system. Are not open adversarial courts essential to the trust and confidence of the American people, and do we not need that kind of fundamental reform in order to preserve our basic liberties?

I ask this question of my colleague and friend from Kentucky because I think his debate on the floor of this Senate tonight raises fundamental issues that need to be discussed and addressed.

I thank the Senator from Kentucky for the opportunity to ask this question and address this body.

I thank the Presiding Officer.

Mr. PAUL. I thank the Senator from Connecticut for that question.

I think one of the points my friend was making through the question had to do with the whole idea of relevance, which is sort of an amazing thing.

I think the quote from the privacy and civil liberties commission really hits the nail on the head—that they cannot be regarded as relevant to any FBI investigations required by the statute without redefining the word ''relevant'' in a manner that is circular, unlimited in scope, and out of step with the case law.

The interesting thing is that we want a body that works a little more like a court, and I know the Senator from Connecticut has been in favor of having a special advocate and trying to make it more like a courtroom. I think you can only get the truth if you have people on both sides. If you have people on one side, it is an inevitability that the truth is going to be lost and you are going to list in one direction.

I think that will be a huge step forward, but it does boggle the mind that we can have them arguing that this is relevant to an investigation that has not yet occurred because we are collecting data and then we are going to mine it at some other time for some investigation. So it couldn't be relevant to an investigation because there is not yet an investigation when they are collecting the data. And no FISA Court seemed to question that, so it concerns me as to whether it is a very good kind of undertaking at finding the truth.

So I think the Senator is exactly right, and I believe there are things we can definitely do to make it better. I think the bottom line is that we should not collect bulk data on people who are not suspected of a crime.

One of the sections of the PATRIOT Act that doesn't get quite as much discussion is section 213. That is the sneak-and-peek section and it is not up for renewal, but it is something that also shows how we have really gone awry on that.

Radley Balko has written about this in the Washington Post, and it is how something starts out just a little bit at a time and grows bigger and bigger.

From 2001 to 2003, law enforcement only did 47 sneak-and-peek searches. The 2010 report said it was up to 3,970, and 3 years later, in 2013, there were 11,129 sneak-and-peek searches. That is an increase of over 7,000 requests. That is exactly what privacy advocates argued in 2001 would happen.

The interesting thing is that when you look to see who exactly we are arresting through these sneak-and-peek warrants that were intended to be a lower standard so we could catch terrorists, well, we are going after drug dealers. So, in essence, we have changed from a constitutional standard to catch drug dealers down to a terrorist standard, which is a lower standard.

To make matters worse, there are accusations and implications from data that maybe the war on drugs has a disproportionate racial outcome. I think it is concerning that we are actually not using a constitutional standard but a lower standard.

I have an article that was written by Radley Balko in 2014 that appeared in the Washington Post. He says:

> Washington establishment types are often dismissive and derisive of the idea that members of Congress should actually be required to read legislation before voting on it—or at the very least be given the time to read it. There's also a lot of Beltway scorn for demands that bills be concise, limited in scope and open for public comment in their final form for days or weeks before they're voted on. If you're looking for evidence showing why the smug consensus is wrong, here is Exhibit A.

He is talking about the sneak-and-peek and how if we had known what was in it, we would have known in advance that it was not really going to end up being used for terrorists and instead end up being used for domestic crime.

He says:

> This is also an argument against rashly legislating in a time of crisis. On Sept. 11, 2001, the federal government failed in most important and basic responsibility—to protect us from an attack. We responded by quickly giving the federal government a host of new powers.

Assume that any power you grant to the Federal Government to fight terrorism will inevitably be used in other context.

The article goes on:

> Assume that the primary ''other context'' will be to fight the war on drugs. (Here's another example just from this month.) I happen to believe that the drug war is illegitimate. I think fighting terrorism is an entirely legitimate function of government. I also think that, in theory, there are some powers the federal government should have for terrorism investigations that I'm not comfortable granting it in more traditional criminal investigations. But I have zero confidence that there's any way to grant those powers in a way that will limit their use to terrorism.
>
> Law-and-order politicians and many (but not all) law enforcement and national security officials see the Bill of Rights not as the foundation of a free society but as an obstacle that prevents them from doing their jobs. Keep this in mind when they use a national emergency to argue for exceptions to those rights.
>
> When critics point out the ways a new law might be abused, supporters of the law often accuse those critics of being cynical—they say we should have more faith in the judgment and propriety of public officials. Always assume that when a law grants new powers to the government, that law will be interpreted in the vaguest, most expansive, most pro-government manner imaginable. If that doesn't happen, good. But why take the risk? Why leave open the possibility? Better to write laws narrowly, restrictively and with explicit safeguards against abuse.

Of the 11,000 sneak-and-peek warrants that were issued, 51 were used for terrorism. We lowered the constitutional standard, but we ended up using it for domestic crime, not for terrorism.

This is happening in other forums. There is something that folks are calling parallel construction. This is an article from the Electronic Frontier Foundation by Hanni Fakhoury entitled ''DEA and NSA Team Up to Share Intelligence, Leading to Secret Use of Surveillance in Ordinary Domestic Crime.''

> Add the IRS to the list of Federal agencies obtaining information from NSA surveillance. Reuters reports that the IRS got intelligence tips from DEA's secret SOD unit and were also told to cover up the source of that information by coming up with their own independent leads to recreate the information obtained from SOD.

So let me explain what happens. We once again use a lower standard, a nonconstitutional standard, the standard we are supposed to be using for terrorists. We get information on people who are not terrorists, who may or may not be committing an IRS violation. We tell the IRS. They know it is illegally obtained information, so then they look for another way to prove that this information—other information that they can find—to prove the point that they only knew about it from legally obtained information.

> A startling new Reuters story shows one of the biggest dangers of the surveillance state: The unquenchable thirst for access to the NSA's trove of information by other law enforcement agencies.
>
> As the NSA scoops up phone records and other forms of electronic evidence while investigating national security and terrorism leads, they turn over ''tips'' to a division of the Drug Enforcement Agency known as the Special Operations Division. FISA surveillance was originally supposed to be used only in specific authorized national security investigations, but information sharing rules

implemented after 9/11 allows the NSA to hand over information to traditional domestic law-enforcement agencies, without any connection to terrorism or national security investigations.

But instead of being truthful with criminal defendants, judges, and even prosecutors about where the information came from, DEA agents are reportedly obscuring the source of these tips.

For example, a law enforcement agent could receive a tip from foreign surveillance, and he could look for a specific car in a certain place.

But instead of relying solely on the tip, the agent would be instructed to find his or her own reason to stop and search the car.

Agents are directed to keep SOD under wraps and not to mention in their reports where they got their information.

If we are going to use standards that are less than the Constitution for IRS investigations, for drug investigations, we ought to just be honest with people that we are no longer using the Constitution. If we are going to use the Constitution, then we shouldn't allow evidence obtained through foreign surveillance and through a lower standard to be used in domestic crime.

(Mr. CRUZ assumed the Chair.)

Parallel construction, which is basically getting surveillance tips and then using them and reconstructing and trying to come up with a different reason for why law enforcement stopped someone, is something that really—if we are not going to be honest about it, someone has to do something to fix this.

After an arrest was made, agents then pretended that their investigation began with the traffic stop, not with the tip they got from our foreign surveillance agencies.

The training document reviewed by Reuters refers to this process as parallel construction.

Senior DEA agents who spoke on behalf of the Agency but only on the condition of anonymity said the process is kept secret to protect sources and investigative methods. Realize they are also keeping it secret from a judge, the defense lawyers, and the prosecution.

Some have questioned the constitutionality, obviously, of this program.

''That's outrageous,'' said Tampa attorney James Felman, a vice chairman of the criminal justice section of the American Bar Association. ''It strikes me as indefensible.''

Lawrence Lustberg, a New York defense lawyer, said any systematic government effort to conceal the circumstances under which cases begin ''would not only be alarming, but pretty blatantly unconstitutional.''

Former Federal prosecutor Henry Hockmeier wrote: ''You shouldn't be allowed to game the system. You shouldn't be allowed to create this subterfuge. These are drugs crimes, not national security cases. If you don't draw the line here, where do you draw it?''

This is an article from the Washington Post by Brian Fung entitled ''The NSA is Giving Your Phone Records to the DEA. And the DEA is Covering It Up.''

A day after we learned of a draining turf battle between the NSA and other law enforcement agencies over bulk surveillance data, it now appears that these same agencies are working together to cover up when those data get shared.

The Drug Enforcement Agency has been the recipient of multiple tips from the NSA.

Realize also that the NSA is supposed to be investigating foreign threats. The NSA was not supposed to be doing anything domestically. We now have them involved in bulk collection, but we also now have them involved in drug enforcement.

The article continues:

DEA officials in a highly secret office called the Special Operations Division are assigned to handle these incoming tips, according to Reuters. Tips from the NSA are added to a DEA database that includes intelligence intercepts, wiretaps, informants, and a massive database of telephone records. This is problematic because it appears to break down the barrier between foreign counterterrorism investigations and ordinary domestic criminal investigations.

Because the SOD's work is classified, DEA cases that began as NSA leads can't be seen to have originated from an NSA source.

So what does the DEA do? It makes up a story of how the agency really came to the case in a process known as parallel construction, Reuters explains. Some defense attorneys and former prosecutors said that parallel construction may be legal to establish probable cause for an arrest, but they said employing the practice as a means of disguising how an investigation began may violate pretrial discovery rules by burying evidence that could prove useful to criminal defendants.

The report makes no explicit connection between the DEA and the earlier NSA bulk phone surveillance uncovered by Snowden.

In other words, we don't know for sure if the DEA's Special Operations Division is getting tips from the same database that has been the subject of multiple congressional hearings. We just know that a special outfit within the DEA sometimes gets tips from the NSA.

There is another reason the DEA would rather not admit the involvement of NSA data in their investigations. It might lead to a constitutional challenge to the very law that gave rise to the evidence.

Earlier this year, federal courts said that if law enforcement agencies wanted to use NSA data in court, they had to say so beforehand and give the defendant a chance to contest the legality of the surveillance. Lawyers for Adele Daoud, who was arrested in a federal sting operation and charged, suspect that he was identified using NSA information but were never told.

Surveys show most people support the NSA's bulk surveillance program strongly when the words ''terrorism'' or ''courts'' are included in the question. When pollsters draw no connection to terrorism, the support tends to wane. What will happen when the question makes clear that the intelligence not only isn't being used for terrorism investigations against foreign agents, but it is actively being applied to criminal investigations against Americans?

Some of the companies have begun to push back on the backdoor mandates that are coming from government to get into our information.

In one of the most public confrontations of a top U.S. intelligence official by Silicon Valley in recent years, a senior Yahoo Inc. official peppered [NSA] director, Adm. Mike Rogers, at a conference on Monday over digital spying.

The exchange came during a question and answer session at a daylong summit on cybersecurity. . . . Mr. Rogers spent an hour at the conference answering a range of questions. . . .

The tense exchange began when Alex Stamos, Yahoo's chief information security officer, asked Mr. Rogers if Yahoo should acquiesce to requests from Saudi Arabia, China, Russia, France and other countries to build a ''backdoor'' in some of their systems that would allow the countries to spy on certain users.

''It sounds like you agree with [FBI Director] Comey that we should be building defects into the encryption in our products so that the US government can decrypt,'' Mr. Stamos said. . . .

''That would be your characterization,'' Mr. Rogers said, cutting the Yahoo executive off.

Mr. Stamos was trying to argue that if Yahoo gave the NSA access to this information, other countries could try and compel the company [to do the same].

Mr. Rogers said he believed that it ''is achievable'' to create a legal framework that allows the NSA to access encrypted information without upending corporate security programs. He declined to [be more specific].

''Well, do you believe we should build backdoors for other countries?'' Mr. Stamos continued.

''My position is—hey, look''—

This is from Mr. Rogers, Admiral Rogers—

''I think that we're lying that this isn't technically feasible''. . . .

He said the framework would have to be worked out ahead of time by policymakers—not the NSA. . . .

The back and forth came less than two weeks after Apple, Inc. chief executive Tim Cook leveled his own criticism of Washington, saying at a White House cybersecurity conference in California that people in ''positions of responsibility'' should do everything they can to protect privacy, not steal information.

Mr. Rogers attempted to parry the questions but also signaled he welcomed the debate. . . .

Still, Mr. Rogers did little to deflect recent accusations about the NSA activities. For example, he refused to comment on recent reports that the NSA and its U.K. counterpart stole information from Gemalto NV, a large Dutch firm that is the world's largest manufacturer of cellphone SIM cards.

I think the accusations continue to mount. Everywhere we look, we see the anger beginning in our tech industry. We see them wondering about having backdoor mandates built into their product.

I think the Senator from Oregon has been great at pointing this out and has written several op-eds talking about what the harm is of leaving basically a portal or an opening for our government but one that may well be exploited by hackers and may well be exploited by foreign governments.

Does the Senator from Oregon have a question?

Mr. WYDEN. I think my colleague has made the point with respect to our government—particularly the FBI Director—actually arguing that companies should build weaknesses into their systems.

I note my colleague has been on his feet now for somewhere in the vicinity of 9 hours, so I think we are heading into the home stretch. For people who are listening, I think they really are first and foremost interested in how this Senate, on a bipartisan basis, can come up with policies that ensure that we both protect our privacy and our security. As my colleague said, they are not mutually exclusive.

So I think what I would like to do is wrap up my questioning tonight by talking about how this bulk phone record collection and related practices is an actual intrusion on liberty, and to start the conversation, you have to first and foremost get through this whole concept of metadata. We heard people say: What is the big deal about metadata? And for quite some time we had Senators saying: What is everybody upset about? This is just ''innocent metadata.''

Well, metadata, of course, is data about data, but it is not quite so innocent. If you know who someone calls, when that person calls, and for how long they talk, that reveals a lot of private information. Personal relationships, medical concerns, religious or political affiliations are just several of the possibilities. Most people that I talk to don't exactly like the government vacuuming up private information if those persons have done nothing wrong. Now, this is especially true if the phone records include information about the location and movements of everyone with a cell phone. And we have not gotten into this in the course of this evening, but I want to take just a minute because I think, again, it highlights what the implications are.

I have repeatedly pushed the intelligence agencies to publicly explain what they think the rules are for secretly turning American cell phones into tracking devices. They have now said that the NSA is not collecting that information today, but they also say the NSA may need to do so in the future. And General Alexander, in particular, failed in a public hearing to give straight answers about what plans the NSA has made in the past.

Now, to be clear, I don't think the government should be electronically tracking Americans' movements without a warrant. What is particularly troubling to me is there is nothing in the PATRIOT Act in addition that limits this sweeping bulk collection authority to phone records. Government officials can use the PATRIOT Act to collect, collate, and retain medical records, financial records, library records, gun purchase records—you name it. Collecting that information in bulk, in my view, would have a very substantial impact on the privacy of ordinary Americans.

I want to be clear, I am not saying this is what is happening today, but I want to make equally clear this is what the government could do in the future. So my question, as my colleague, who has been on his feet for a long time, moves to begin to wrap up his comments this evening, I would like my colleague's thoughts on the impact of NSA collection of bulk records on innocent Americans. I also would be interested in his views with respect to why we have not been able to get the government to give straight answers about the tracking of the location and movements of Americans with cell phones that took place in the past. I would be interested in my colleague's thoughts on those two points.

Mr. PAUL. Well, I want to thank the Senator from Oregon for the great questions and also for being supportive and really being the lead figure from the Intelligence Committee trying to make this better.

I think so often our Intelligence Committees don't have enough people who are really concerned with the Bill of Rights as well as national defense, so we get a one-sided view of things. I think over the years you have been able to continue this battle in a healthy way, understanding both sides of it, both with national security but also understanding that who we are as a people is important and that we not give that up—that we not give up our most basic of freedoms in doing this.

I think that power tends to be something people don't give up on easily. So when you have power that you give to people, you have to have oversight. It is incredibly important that we do have oversight on what we are giving up, but it is also important that we see what has gone wrong. The FISA Court model hasn't worked to oversee and regulate the NSA, because when finally a real court looked at this, when finally the appellate court looked at this, what we find is that the appellate court was aghast that basically they were maintaining that this was relevant to an investigation.

Apparently, the way the process worked was the NSA said it was relevant, but there was no debate or dispute. It was just accepted at face value. I thought the privacy commission put it pretty well when they said: Well, how can it be relevant to an investigation that hasn't yet occurred? We are collecting all the bulk data and we are going to query it when we have an investigation. You can't argue that it is relevant to an investigation when there is no such investigation occurring while they are collecting the data. The privacy commission said that basically we are turning words on its head if we are saying something like this is relevant.

So I think the American people are ready for it to end. The American people think the bulk collection of our records with a generalized warrant is a mistake and ought to end. I think we are working very hard, and at this point our hope is that between your actions and my actions, that hopefully leaders of your party and my party will agree to allow amendments to the PATRIOT Act.

The goal of being here today has been to say not only to the American people but to say to the leadership on both sides and to all the Members that we want an open amendment process, that the discussion of the Fourth Amendment is an important discussion and that we shouldn't run roughshod over this by saying there is a limit and a deadline and we don't have time for debate and we are going to put it off yet again.

I thank the Senator from Oregon for helping to make it happen, but my hope is that we can get an answer from the leadership of both parties that they are going to allow the amendments that your office and my office have been working on for 6 or 7 months now.

Mr. WYDEN. My understanding of my colleague's request—and that was my point of once again coming back to bulk collection of phone records, past practices with respect to tracking people on cell phones, and any policies that may be examined for the future—I think my colleague is saying it is time to ask some tough questions. Many of these amendments we have been working on are basically designed to address these issues where we haven't been able to get answers in the past.

After 9/11, it was clear the people of our country were worried and there was just a sense that if you were told it was about security, you were supposed to say, OK. That is it. But that is not the kind of oversight the Congress—particularly after we had a time stamp on the PATRIOT Act, we all thought it was going to end, and then it was time to start asking the tough questions. And not enough tough questions have been asked. And my colleague in the amendments we are talking about really seeks to get answers and use that information to change practices on a lot of these areas that have really gotten short shrift in the past. I appreciate my colleague talking about the FISA Court in connection with this. This is, for listeners, the Foreign Intelligence Surveillance Act Court—certainly one of the most bizarre judicial bodies in our country's history, created to apply commonly understood legal concepts, such as probable cause, to the government's request for warrants to track terrorists and spies. But over the last decade, the FISA Court has been tasked with interpreting broad new surveillance laws and has been setting sweeping precedents about the government's surveillance storing, all of it being done in secret.

And I will say—and I would be interested in my colleague's thoughts on this—that it is time that the court's significant legal interpretations be made public—be made public so there are no more secret laws; that the people of this country have the chance to engage in debate about laws that govern them. I also think there ought to be somebody there who can say on these questions where there are major constitutional implications, there ought to be somebody there who can say: Look, there may be other considerations than the government's point

of view. But transparency here is critical so that Congress and the courts can hold the intelligence community accountable. I want to mention, once again, we are talking about policies. We are not talking about matters that are going to reveal secret operations or sources and methods. We are talking about policy.

So I think it would be helpful, again, as we move to wrap up, if my colleague from Kentucky could outline some of the reforms in the foreign intelligence court area that he thinks would be most helpful in terms of promoting transparency and accountability, that do not compromise sources and methods—because I think my colleague has some good ideas in this area—and what, in my colleague's view, would be most important with respect to getting reforms in this secret court in a way that would ensure more transparency for the public and still protect our valiant intelligence officials who are in the field.

Mr. PAUL. I think that is a good question, and the Senator's office and my office have worked for a while to try to come up with FISA reforms. One of them is sort of in the USA FREEDOM Act but maybe could be better, saying that there ought to be a special advocate so there is an adversarial proceeding.

One of the problems in the USA FREEDOM Act, as it is written, is that the advocate is only appointed by the FISA Court and doesn't have to be appointed by the FISA Court. It may well be that a FISA Court that has given a rubberstamp to bulk collection may not be as inclined to give a special advocate.

I also think it is important, as the Senator mentioned many times, that we should get outside of a secret court to a real court, where you really have an advocate that is actually on your side, I think allowing for an escape hatch for people to appeal.

For example, if you are being told by a FISA Court that bulk collection of all the phone data in our country is legal, you should have a route to an appellate court, an automatic route out of FISA to an appellate court. I think the appellate courts are fully capable of redacting, going into closed session if they have to, but then you have a real trial, with a real advocate on both sides. I think that is important as well.

I do have one question or a question that you may be able to reframe into a question; that is, can you give the public a general idea of what percentage of the overall problem of collecting Americans' data is in the form of bulk data and what percentage do you think is coming from Executive order and what do you think is coming from the 702 backdoor collection of data.

Mr. WYDEN. I would say that all of the matters we have talked about this afternoon, this evening, would be significant concerns with respect to ensuring the liberties of the American people are protected without compromising our safety. Let's check them off: bulk phone collection, millions and millions of phone records of law-abiding Americans; the Executive order No. 12333 that we talked about today, another very important area; and then section 702, the Foreign Intelligence Surveillance Act area, where a foreigner is the target and the records of Americans are swept up. So I think we are addressing exactly one of the concerns that has come out in the last few days with respect to what Americans are concerned about.

I know there has just been a brandnew major survey that has been done. My colleagues may have touched on it sometime in the course of the day. Americans particularly want to know what information about them is being collected and who is doing the collecting. In each of these three areas that I mentioned, there are substantial questions with respect to the privacy rights of Americans.

Mr. PAUL. Well, one of the comments that we went through tonight was an opinion by one of the attorneys in the Bush administration. They said, basically, that there were authorities that they were given that were inherent authorities under article II that gave them the right to collect data on Americans. But they also then concluded by saying that Congress had no business at all reviewing this data; that there was no authority—that they were basically powers given to the President and that Congress has no ability—I guess I would be interested, in the form of a question, if the Senator can answer whether he believes there are article II powers of surveillance of American citizens that Congress has no business questioning?

Mr. WYDEN. My colleague is—and I remember those days well—basically summing up the argument of the Bush administration. I and others pushed back and pushed back very hard, because it would essentially, if taken to this kind of logical analysis, basically strip the legislative branch of its ability to do vigorous oversight.

So my colleague has summed up what was the position of the Bush Administration. But like so many other positions that were taken during that period of time, once there was an opportunity to make sure people understood how sweeping it was—what my colleague has described is an extraordinary sweep of executive branch power basically relegating any role for congressional oversight to that much—and not on the central question. So my colleague has summed up what the Bush administration said in those early days.

I had joined the Intelligence Committee shortly before 9/11. I was struck, because this really was the first example I saw of just how some in the executive branch would try to lay out a theory of executive branch power that really just takes your breath away.

Mr. PAUL. I guess a followup to that would be this: Are those arguments still being floated from this administration that there are article II powers? There is a debate going on over this Executive Order 12333. The question is whether people are still trying to maintain that Congress has no ability to oversee or review it?

But I have seen, at least in the lay press—I think they say in the lay press that there is some special investigation. Without going into detail, is there some kind of investigation or evaluation of the Executive order being done by us or one of the congressional bodies? That was in the lay press.

Mr. WYDEN. Yes, what I can tell you is that I think there have been some changes, some improvements. But it continues to be a challenge. The reality is you kind of look back from that period. In those early days, for example, John Poindexter made a proposal for something called Operation Total Information Awareness. It would have been the most sweeping invasion of privacy, in my view, in the country's history. We decided, much like when my colleagues talked about those early interpretations in the Bush administration, that this was an unacceptable expansion of executive branch power.

But it was not until a young intern who was in our office late one night found some of the true excesses of this project—in fact, this young intern found that the program would actually encourage, as part of an experiment, debate about assassinating foreign leaders. People just found that so out of the mainstream that when we brought it to light, Operation Total Information Awareness was gone within about 48 hours.

So we have seen—my colleague highlighted the Bush administration proposal to basically have unchecked executive branch power in Operation Total Information Awareness. My colleague asked about 12333, which we have been reviewing.

So, yes, it is going to remain an ongoing concern, an ongoing challenge, because I think there is a sense that the executive branch is the only one that can really deal with this kind of information in a timely kind of fashion. Well, what we have seen, with respect to bulk phone record collection, is that this has been a program that has not been about timely access to relevant information.

Experts with national security clearances—we talked about those individuals this afternoon—said this program does not make us safer, and we could get rid of it and obtain the information by conventional sources. So I think we have begun to reign in this unchecked executive branch power. I think a big part of it has been the very valuable work my colleague has done in terms of trying to highlight these kinds of practices and why I have appreciated the chance to work closely with my colleague since I came to the Senate.

Mr. PAUL. I think one of the most exciting things probably is the court case—the Second Circuit Court of Appeals—and their ruling. My hope,

though, had been that it would go to the Supreme Court. My understanding is it has been remanded to a lower court. I think one of the things that we really need is that we need a ruling that updates Maryland v. Smith. We need a ruling that talks about the fact that most people's records are being held in a virtual fashion. I think there needs to be a ruling that comes from the Court that acknowledges that you still retain a privacy interest in your records, even when they are being held outside of your house.

The idea of old fashioned papers in your house—the concept is good, that we should protect that privacy. But I think also the concept technologically is that you know you will not have papers in your house, but you will have private matters that will be held virtually outside the house—and whether or not the Fourth Amendment protects those. You often have advocates from the government who say that the fourth amendment does not apply to any records once they are outside your house or in other hands. I really think that you do not give up your privacy interest when you let someone else hold your records, that you still maintain an interest in privacy even though someone else holds these records.

Mr. WYDEN. I think my colleague has made an important point with respect to the Smith case. The Smith case was not made for the digital age. That is a big part of what we have sought to do throughout this debate, is to try to make sure that people really understand the implications in the digital age of what these policies, you know, mean for their privacy.

I see my colleagues are on the floor and I want to give them some time. But since you mentioned this question of the court cases, I think there was really striking language recently by Judge Leon of the U.S. District Court for the District of Columbia, talking about what the scooping up of all of these records really means. Judge Leon said, ''a few scattered tiles of information'' when collected in mass, can ''reveal an entire mosaic'' about a person including their religion, their sexual orientation, medical issues, and political affiliations.

So you combine what the judge has described, I think correctly, as bulk collection, outdated court cases such as the Smith case, which really was not updated in terms of what we would be facing in the digital age, and I think this really combines to create policies that have a chilling effect on liberty and liberty for innocent law-abiding Americans.

So I want to say it again to my colleague who is now approaching 10 hours on his feet. I very much appreciate his focusing on these issues. We have a lot of work to do because we know that there has been a pattern in the past where when we really get down to the final days—the last couple of days—there is always a lot of pressure to go along with some kind of short-term extension. That has been the pattern year after year, every time there has been an expiration of the act.

I think what has been shown today is that kind of business as usual is just not going to be acceptable any longer. You have made that point. I want it understood that we are going to be pursuing the effort to make sure that this time we are not just going to re-up a bad law, re-up a flawed policy and say that it is OK to continue a program.

This was reauthorized, in effect, by the President a few months ago. This is going to be the last extension. This has got to be the last extension. I am committed to working closely with the Senator and our colleagues to make sure that that is the case and to take the steps necessary to ensure this is finally the last extension of a badly flawed law. I thank my colleague for his good work.

Mr. PAUL. Thank you. I think the American public is ready to end bulk collection. I think there is a bipartisan, across-the-aisle approach that people want to end bulk collection. The time is now. We cannot keep extending this.

I think probably the biggest deal is that the PATRIOT Act does not even justify this. This is a program that needs to end because even those who read the PATRIOT Act, even those who love the PATRIOT ACT, acknowledge that the PATRIOT Act does not even give permission for this. This is something we are doing that there is no permission for. It has to end. I think the American people will be very disappointed in us as a body if it does not end.

This is the time to do it. I agree with the Senator. We are going to do everything we can to stop it. I see the Senator from Utah. Does the Senator from Utah have a question?

Mr. LEE. I do. At the outset of my question, I would like to point out that while I disagree with you, Senator PAUL, with regard to the specific question of whether we should allow section 215 of the PATRIOT Act to expire in its entirety, I don't believe we need to do that. I would prefer that we pass the USA FREEDOM Act as passed by the House of Representatives by an overwhelming margin of 338 to 88 last week.

While we disagree on that issue, I absolutely stand with you, Senator PAUL, and I believe with the American people, on the need for an open, transparent process and debate regarding this issue. I also stand with the Senator with regard to the belief that bulk metadata collection is wrong. It is not something that we can support. It is not something that the American people feel comfortable with and that it is incompatible with the spirt if not the letter of the Fourth Amendment to the Constitution of the United States that we have all sworn an oath to uphold and protect and defend.

Let's remember the text of the Fourth Amendment. The text of this amendment, penned in 1789, ratified in 1791, says: ''The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

These are not idle words. They are not surplusage. They are not there just for ornamental purposes. They are there to put important limitations on the power of government, to make sure that when government goes after things—things that are important to our personal lives, things that are part of our houses, things that are part of our papers, our personal effects—those things cannot just be grabbed randomly by government.

Government has to have a reason for going after them, and government has to be constrained in some meaningful way in the way it goes after them.

When the government relies on a warrant, the warrant needs to describe the things or the places to be searched with particularity. The people subject to them need to be identified with some particularity.

And, you know, these words were meant to be flexible. They were meant to be molded from time to time in different circumstances. They are not absolute in their terminology, and that is one of the reasons they have endured for well over two centuries and why they have been able to adapt to changes in technology. But there is not any reasonable construction of this language that I think can countenance what the NSA is doing and what we are talking about here, which is the bulk collection of telephone metadata.

Now, what is happening is that the NSA is getting these orders, these orders from the Foreign Intelligence Surveillance Court, and these orders basically tell the telephone service providers: Give us all your data. Give us all your records, all of them. We don't really care whether they are relevant to an ongoing investigation of a particular person or of a particular terrorism ring or a particular foreign intelligence group of activities. We want all of them. Send all of them to us. We are going to put them all in a database and we are going to search them when we feel like it.

Now, I don't dispute the claim made by the NSA that there are a limited number of people who have access to this database, nor do I dispute, at least for purposes of this discussion I am not going to dispute—and I have no basis for refuting—the assertion that the people who work at the NSA are well intentioned, that they have our national security interests at heart, that they are there to protect us.

But even if we don't dispute any of those things, even if we accept all of those things as a given, we have to acknowledge the very real risk that the same people who work there now might not be—in fact, we are certain they

will not be—the same people who work there 1 year from now or 2 years from now or 5 years or 10 years or 15 years from now.

And we know something about human nature, which is that humans, when given power, will sometimes abuse that power. Sometimes they will abuse that power to the detriment of others. Sometimes they will do it for personal financial gain. Sometimes they will do it for political gain. Sometimes they will do it in order to further certain agendas.

That is exactly why it is so important to put boundaries around the authority of government. That, of course, is what the Constitution is. This is our set of boundaries. This is our fence around government authority. It is there for a reason. It is there to make sure the American people are protected against government.

So, first, the Founding Fathers put in place this structure that explained how government would work. It established the government, and then it carefully positioned this series of fences around the government to make sure power wasn't abused against the people.

It is interesting, when the PATRIOT Act was enacted and when it was subsequently reauthorized several years later, Congress put in place a relevance requirement. Congress put in place—in section 215 of the PATRIOT Act—a requirement that the business records that were obtained by the NSA, pursuant to section 215 of the PATRIOT Act, had to be relevant to an investigation, relevant to some things they were doing.

Here again, as with the language of the Fourth Amendment of the Constitution, there is some play in the joints of the term ''relevance.'' Some things might be relevant in one situation and not another. Whether it is relevant is going to depend on a lot of facts and circumstances pertinent to the investigation in question, but it stretches the term ''relevant'' or the concept of relevance beyond its breaking point, beyond any reasonable definition.

If you deem something to be relevant, so long as it might in some future investigation—one that has not yet arisen—become relevant, such that you had to gather every record of every phone call made in America, such that NSA wants to go after every record of every phone call made by every American going back 5 years, storing that series of records in a single database that can be queried for up to 5 years in advance.

Let's just go through this exercise for a minute. Think to yourself, how many phone calls have I made in the last 5 years? How many distinct phone numbers have I called in the last 5 years?

Well, if somebody has called 1,000 phone numbers—or, let's say, made phone calls to 500 phone numbers and received phone calls from another group of 500 phone numbers, for a total of 1,000 phone numbers over the last 5 years, then that is 1,000 numbers. Then the NSA goes out one hop beyond that and connects each person, each phone number with whom the original person had contact. Let's assume that each of those phone numbers had, in turn, contact with 1,000 phone numbers. You get to 1 million phone numbers pretty quickly.

But each time the NSA collects these data points, each data point taken in isolation might not say much about that person. But as our friend and our colleague from Oregon noted a few minutes ago, it is by using that combination of data points, by aggregating all of those data points together, someone can tell an awful lot about a person.

In fact, there are researchers who, having used similar metadata and similar sets of metadata in their own databases, have concluded that they can tell what religion a person belongs to, what political party someone belongs to, their degree of religiosity, and their degree of political activity.

They can tell what someone's hobbies are. They can tell whether they have children, whether they are married. They can tell how healthy they are, what physical ailments they might suffer from. In many instances, they can tell what medications they are on. And all of these things are made more efficient by virtue of the automation in this system.

So while it is true people point out that under section 215 of the PATRIOT Act, under this particular program, the NSA is not listening to telephone conversations. They are not listening to them.

Interestingly enough, this is very often a straw man argument that is thrown out by those who want to make sure that section 215 of the PATRIOT Act is reauthorized without any reforms. They claim that those who are opposed to this type of action are out there falsely claiming that the NSA is listening to phone calls over this program.

Well, that accusation of falsehood is, itself, false. That accusation of falsehood is, itself, a straw man effort. It is a red herring. It is a lie. It is a lie intended to malign and mischaracterize those of us who have genuine, legitimate concerns with this very program, because the fact is we don't make that argument. The argument we are making is that the NSA doesn't even need to do that. The NSA can tell all kinds of things about people just by looking at that data.

Because it is automated and because it is within a system that operates with a series of computers, they can tell very quickly it is a lot less human resource-intensive than it would be if they were having to listen to countless hours of phone conversations. It is a lot more efficient.

Again, I want to be clear. I have no proof that the NSA is currently abusing this particular program. I am not aware of any evidence that such abuse is occurring. And I am willing to assume, for purposes of this discussion, that is not occurring, that the men and women who work at the NSA have nothing but the best interests of the American people and American national security at heart.

But how long will this remain the case? And how safe, how fair is it of us to assume that will always be the case? We can scarcely afford—for the sake of our children, our grandchildren, and those who will come after them—we cannot afford to simply assume this will always be the case.

We have to remember what happened a few decades ago when Senator Frank Church and his committee looked into wiretap abuses that had happened within the government. We have to remember the Church report that was released at the end of that investigation.

That report concluded that every Presidential administration from FDR through Richard Nixon had utilized law enforcement and intelligence-gathering agencies within the Federal Government to go engage in political espionage. So that technology, which was then only a few decades old, had been abused. It had been abused for a long time. The abuse of this technology had gone, of course, unreported for many decades, but it had nonetheless been occurring.

Again, I don't know, I can't prove it. I have no evidence that such abuse is going on right now. But I think all of us, in order to be honest with ourselves, would have to acknowledge that there is at least some risk that if it is not occurring now, at some point it will occur in the future. This temptation is simply too strong for most mortals to resist, particularly in an area such as this where there is, with good reason, very little ability for the outside world to observe what is going on inside that particular government agency.

Now, that is exactly why I happen to support what was passed by the House of Representatives last week. What was passed by the House of Representatives last week in the form of the USA FREEDOM Act was something that would require the NSA to, instead of going out to all the telephone companies and saying, send us all of your records, we want your calling records, just give us your records, we don't care whether it is relevant to a particular phone call, particular to a specific number that was itself involved in terrorist activity or foreign surveillance activity, we don't care about that, just send it to us—far from doing that, what the USA FREEDOM Act would require is for the government to show that they needed records related to a telephone number that was itself involved in some kind of activity. They wouldn't have the ability to go to all the phone companies and just say send us everything.

They would instead have the power to get a court order, to get those

records of those phone calls that might well be connected to terrorism based on their contact with a phone number that was related to such activities or their contact with somebody else, with some other phone number that was, in turn, having some kind of communication with someone involved in those activities.

Not all of us agree on this and, Senator PAUL, you and I don't agree on this particular bill, but we do agree on the underlying issue. And we also agree that the Senate works best, that the Senate serves the American people well when it lives up to its self-described reputation as being the world's greatest deliberative legislative body. We would all be better off if we were able to put this bill on the floor right now—if this bill were able to come to the floor and it were subjected to open, honest debate and discussion so the American people could see we were debating this and so that you, Senator PAUL, and some of our other colleagues who have ideas as to how we could make this legislation better would have the opportunity to introduce, in the form of an amendment, improvements to this legislation.

I heard you outline quite articulately just a few hours ago some very thoughtful reforms, some very well-thought-through improvements, amendments that you would make to this legislation. I think we would all be better off if we took that kind of approach.

Now, we have seen in the last few months what can happen. When we came back in January, we saw that the desks in the Senate Chamber had been rearranged. Many of us were pleased. We didn't shed a tear at the realignment of the desks, and we have noticed that this realignment of the desks reflected a change in the political attitude among Americans. But, more importantly for us, it was the precursor to some very positive developments in the Senate.

We saw that within just a few weeks after this shift in power had occurred, we had cast more votes on the floor of the Senate than we had in the entire previous year. Within a few months, we had cast more votes on the floor of the Senate than we had cast in the 2 years previous to that. This was a good sign.

This is a good sign. It is not just because we are here and we cast votes; it is because those votes represent something—they represent the fact that we are actually debating and discussing and we are allowing each Senator to have his or her views heard. We are putting ourselves on record as to what we believe represents good policy and what does not.

I think we would be in a much better position to address the national security needs of our great country if we had such an opportunity with respect to this legislation. That is one of the reasons I came to the floor yesterday, along with one of our colleagues, the senior Senator from Vermont, and asked unanimous consent to bring this bill—the House-passed USA FREEDOM Act, H.R. 2048—to the floor and to have open debate and discussion and an open amendment process, with the understanding we would turn back to the trade promotion authority bill as soon as we had properly disposed of this legislation, as soon as we had finished debating and discussing it, voting on amendments and voting on the legislation.

I am a big believer in free trade. I like free trade. I think free trade is good. I would like to see us get to both of these pieces of legislation. But importantly, H.R. 2048 is a piece of legislation that has kind of a fuse attached to it. Section 215 of the PATRIOT Act is set to expire at the end of this month, and many of us believe we ought to at least have a debate and discussion before that happens, a debate and discussion about what, if anything, would take its place, about whether we need something to put in its place and if so, what that might look like. So that is why we made this request. This request we regarded as a very reasonable one was, unfortunately, one that drew an objection, so we were not able to bring it to the floor.

The U.S. Court of Appeals for the Second Circuit, based in New York, recently addressed this issue of whether section 215 of the PATRIOT Act can appropriately be read to authorize the NSA to engage in this bulk metadata collection program. The U.S. Court of Appeals for the Second Circuit answered that question in the negative and concluded there is no statutory authority for the NSA to collect this type of metadata. It doesn't have the authority. It cannot collect bulk metadata on this basis.

As the Second Circuit concluded, the business records sought under that provision have to be relevant. There has to be some relevance to something they are investigating. And of course their only relevance here, under this program, is that they exist; it is that they represent phone calls made by someone in the United States, that they were made under a telephone network in the United States. That can't be the answer. That cannot reflect a proper understanding of this concept of relevance that is in section 215 of the PATRIOT Act. It can't, and it doesn't.

This court ruling is one of the many reasons why we need to be having this debate and why we shouldn't be willing to simply reauthorize section 215 of the PATRIOT Act with the understanding that the NSA will continue operating this program as is if we reauthorize it.

It is one of the reasons why I have been so insistent on having this discussion and so unwilling to support even a shorter term reauthorization of the PATRIOT Act—because they are interpreting section 215 in the PATRIOT Act beyond its logical breaking point.

We have to remember that the Constitution is worth protecting. It is worth protecting even when we can't point to anything bad that is happening right now, even when we can't point to any specific abuse that is occurring.

Bulk data collection is itself a type of abuse. There is a type of constitutional injury even though we can't point to anything secondary from that. We can't point to any horrible secondary effect from it; it is in and of itself wrong.

The wrongness of this program can be illustrated when we take to its logical conclusion the very arguments presented by the NSA for this type of activity. Let me explain. The metadata that is collected by the NSA right now relates exclusively to telephone calls. The records they collect involve records of who you call, when you called them, who calls you, when they called you, and how long the phone call at issue lasted. That is it.

But if the NSA is correct in its interpretation of section 215, which it is not, but if it were correct, there is absolutely no reason why the NSA could not also collect a number of other types of metadata—metadata records, for example, involving the use of your credit card, involving hotel reservations, involving airplane reservations, metadata regarding emails you have either sent or received, who you sent them to and who you received them from, your Internet traffic, where you have purchased online, who has purchased something from you online, and all kinds of things. From that metadata, they could clearly paint a much more vivid picture of you, a profile built as a mosaic from a billion data points. They can tell everything about you from that type of metadata.

Sure, the NSA is not collecting that type of metadata right now. They are not doing it right now. But if we reauthorize this without limitation, if we reauthorize section 215 of the PATRIOT Act and we don't include any kind of restriction on it, there is absolutely no reason why the NSA couldn't conclude tomorrow or next week or a year from now or later that it wants to collect this kind of data as well.

I would suspect nearly all Americans would be shocked and horrified to think the NSA could and would and might at some point in the future collect that kind of information on where you shop online, your credit card bills, your hotel reservations, things like that, things that could easily be connected back to an individual and easily give rise to abuse either for partisan political purposes or for some other nefarious purpose.

I also want to point out that those who are in favor of this program and those who vigorously defend its constitutionality routinely rely on a decision rendered by the Supreme Court in the late 1970s in a case called Smith v. Maryland. They point out that in Smith v. Maryland the Supreme Court upheld the constitutionality of some police activity that involved the collection of calling data. The Supreme

Court concluded in that case that there was not a sufficiently significant expectation of privacy in records of calls that somebody had made and received such that the collection of that data would require a search warrant.

I am not altogether certain that Smith v. Maryland was decided correctly, but let's assume for a minute it was decided correctly and just address the fact that it is a decision that remains on the books. It is precedent that is followed throughout the courts of the United States. That is fine. Let's just accept the fact that it is on the books. But it is very, very different—not just quantitatively different but also qualitatively different—when you are dealing not with one target of one single criminal investigation and not just with maybe a few weeks of calling records but when you are dealing with 5 years of calling records not on one person, of one target in one criminal investigation by one group of law enforcement officers, but 300 million people stretched out over 5 years.

That calling data becomes more significant, moreover, when Americans become more attached to their telephones, when their telephone isn't something that is just plugged into the wall but something that is carried with them every moment of every day. This, by the way, adds to the potential list of metadata that could be collected because of course many people now have telephones that track their location. I don't see any reason why, based on the interpretation of section 215 of the PATRIOT Act and the interpretation of the Fourth Amendment that the NSA has put forward, they couldn't start collecting the location data as well, which would further undermine privacy issues.

So Smith v. Maryland, whether you like it or not, is precedent. It is precedent that is followed by the courts in America, but it is not the end of the story. It certainly doesn't get you over the hump when it comes to this type of collection. Saying that what was covered by Smith v. Maryland is the same thing as what the NSA is trying to do here is a little bit like comparing a pony ride to a ride to the Moon and back. They both involve some form of transportation, but they are worlds apart, drastically different, and so much so that they can't really even be compared.

Our technology has changed dramatically over the years—so much so that if we don't stop and think about it, we might not even recognize it.

A few years ago when my son James was about 10 years old, he came up with a really good idea that he announced to us. He said: You know, I have been thinking about it, and I am going to invent something.

We said: What is that?

He said: Well, I am going to invent a telephone that is attached to the wall. It will be attached to the wall so it can't be removed. It will have a wire that runs into the wall, and that is how the telephone will work.

We looked at him and wondered what gave him this idea and what gave him the idea that that was somehow unique.

We said: Well, first of all, what makes you think that hasn't already been invented? And secondly, why would you want to do that?

He said: Well, I think it is a great idea because it is the only way you wouldn't lose your phone.

Only then did we realize what he was saying. Only then did we realize that what he was telling us was that during his lifetime, he had never seen in our home a phone that was attached to the wall. He had seen cell phones and he had seen cordless landline phones, and he had seen telephones get lost from time to time.

So our technology does change, and as our technology changes, we have to take that into account. Well, our technology has changed now to the point where our government can learn all kinds of personal facts about us through metadata, through the type of metadata involved here, and it is only getting more and more this way every single day as we transact more and more of our day-to-day business over our telephones and as our telephones become more sophisticated, more portable, and more capable of processing more and more data.

The text of the Fourth Amendment I quoted just a few minutes ago is still very relevant today. The fact that the Fourth Amendment refers specifically to the right of the people to be secure in their persons, their houses, and their papers and effects is still relevant today and should remind us of the fact that our persons, our houses, and our papers and effects more and more really become a part of this—they really become a part of our telephones.

Our papers are not always physical papers. More and more, they are not. Increasingly, we are even asked to sign documents that previously would have been physically signed on a hard copy, a stack of papers—increasingly you can do business transactions without ever handling a physical paper. Increasingly, you can do those things electronically. People often prefer to do it that way. It saves time. It saves money. But as more and more of our lives are played out on these portable digital devices, it becomes more and more important for us to be remember there are Fourth Amendment ramifications when the government wants to get involved in what we do on those same devices.

That is why it is not really fair any more to simply rely reflexively on Smith v. Maryland to say this is all constitutional, nor is it fair to say that your phone company already has this record, so there is no reason why the government shouldn't have it. I actually don't even see that comparison.

Some people think this is somehow persuasive. I don't find it persuasive at all. There is a world of difference between allowing a private business with which you have voluntarily chosen to interact to have your business records, particularly when it is a private business that you want to have that information so that private business can keep track of how much you owe them or how much they owe you—there is a world of difference between a private business entity having those records and the government having those records.

The worst thing that a private business can do is perhaps send you too many emails that you don't want asking you for more business or maybe it can give some of your personal data to somebody else who will in turn make phone calls you don't want to receive or send you emails you don't want to receive.

That private business has no ability to put you in prison. That private business has no ability to levy taxes on you. That private business has no ability to make your life a living hell in the same way that your government has the ability to do those things—not just the ability but, lately, with increasing frequency, with strong and seemingly irresistible inclination.

This is not a victimless offense against the spirit and, arguably, the letter of the Constitution. These kinds of things have real-world ramifications. They ought to be troubling to all of us, and we ought to want to do something about them.

So for these reasons, Senator PAUL, I would ask you, don't you think it would be much better to put this bill on the floor now and allow for an open amendment process, one in which you and each of our other colleagues could have an opportunity to provide input, to try to improve the legislation, and to try to do something meaningful with this legislation, rather than just simply ignore it, pretend it didn't exist, sweep it under the rug or wait until we are up against a cliff—this critical cliff between when the Senate, much to my chagrin and the chagrin of many of our colleagues, is set to adjourn and leading up to the moments when this program is set to expire? Wouldn't we be better off to take this up and debate this under the light of day, under the view of the American people?

Mr. PAUL. I think the Senator from Utah asked a great question, and I think he framed the debate over the Fourth Amendment very well.

I think if we asked to put the bill on the floor at this hour, we may not be able to find anybody awake to ask permission to have the bill this evening. We haven't been able to locate anyone to get the bill this evening, so I am afraid we will have to say no.

But we have been asking for a full and open debate. Your solution, as well as mine, as well as Wyden's, as well as other's, is to have a full debate on the floor for this.

There were a couple of things you said that I thought were particularly worth commenting on.

People say that because there is no evidence that the program is being abused, there is no evidence that we are searching the records of certain people of certain race or religion or abusing people for some reason, that is proof somehow that no abuse is occurring.

But I agree with you that the collection alone is an abuse in and of itself. To me, the basic point and the biggest part of the point is that what we are dealing with is something that is a generalized warrant.

There is nothing specific about collecting all of the records from all Americans all of the time. There is nothing specific about the name ''Verizon.'' I tell people that I don't know anybody named Mr. Verizon. So that can't be a specific individualized warrant. That is a general warrant. That is what we fought the Revolution over—to individualize warrants, to individualize what we were requesting, and, above all, probable cause.

We accepted a lower standard to go after foreigners, to go after terrorists. And part of me says that maybe we could do that just for terrorists. But now we are using it for domestic crime.

One of the biggest things I would like to change is that nothing within the PATRIOT Act or any of this could be used to convict somebody in a domestic court.

Section 213—sneak-and-peak—99.5 percent of the time is used for domestic drug crime now. We have the NSA sharing data that is supposed to be collected on foreigners with the domestic DEA and then making up another scenario where they might have heard about this. But they didn't really hear about this from the NSA.

I think the public at large thinks we have gone way too far—way too far with the bulk collection records. It is not only what we have done, but it is just that there is absolutely—even in the PATRIOT Act, which I object to—no justification for collecting the records. The idea that records could be relevant to an investigation that has not yet occurred puts logic on its head, puts it topsy-turvy to where words don't mean anything.

I am very concerned that there is a lot of surveillance that we don't know about, not only through the PATRIOT Act justification but through Executive order justification. It concerns me that there are still people who are arguing that article II gives unlimited authority to the President, that there is no congressional check and balance to the President with regard to surveillance. There are people making that argument—that there is no limitation to Presidential power.

I think one of the best things our Founding Fathers gave us was this check and balance so we had coequal branches. I think it is a great thing with the Fourth Amendment that a warrant had to be signed by somebody who wasn't a policeman, who wasn't a soldier.

This is one of the additional things I would like to do because we don't get to talk about this very much. We have the ability, and we are talking about the bulk collection of records, but we should also talk about whether we should have hundreds of thousands of warrants written by policemen, by FBI agents. I think warrants should have a check and balance where you have a judge.

There is something that is so civilizing and something that levels the playing field and keeps abuse from happening when a policeman tonight in DC, in front of a house, who wants to go in, is calling someone who is not in hot pursuit and who hasn't just had a physical altercation with the people they are chasing—someone who is dispassionate and unconnected to the heat of the crime—who is going to give permission for this policeman to go into a house.

We say that a man's house is his castle, and he can defend it. That was the whole idea—that things within the castle were the man's or woman's, we would say now. But it is not only that your records are in the castle anymore. They are in the cloud. And records are virtual. We have whole households that have no paper records.

The amazing thing about records is they are now saying that with metadata records, they can discover more than we could have discovered in a lifetime of looking at your personal letters in your house, because so much information is there, so much can be connected between the dots between all of these things.

I am still not convinced that we aren't collecting data on credit cards, on emails. I think some of this is done through the Executive order that most of us are not privy to. The only people that know anything about Executive Order 12333 and what they are doing on it are people on the Intelligence Committee. I am not convinced we aren't collecting email data.

They currently say that your email—this is the bill you promoted—after 6 months, your email has no protection. Before 6 months, I think the only protection is to the content, not to the header, not to the addressee.

We currently have the opinion. We desperately need the Supreme Court to rule on this. We have the Smith v. Maryland decision, which was in the premodern age, as far as data goes and as far as your papers being held. We desperately need a decision.

My hope was that the appellate court decision would go to the Supreme Court. But my understanding—being just a doctor—is it went the other way. It has been remanded lower and may never make it to the Supreme Court. I don't know that. But I think we do need something at the Supreme Court level.

There have been many who are now arguing that the appellate court—this again from a physician, not a lawyer—is really binding and that there could eventually be some legal injunction against what the government is doing.

But for goodness sake, it perplexes me that the President says: Oh, yes, we need a balanced approach, and I am listening to my privacy commission. I am listening to the review board. Yet I created this out of whole cloth as an Executive order, and I am unwilling to stop it even though the appellate court has told me it is illegal.

He is unwilling to stop it. I think that sort of defines disingenuous—that he is going to stop it as soon as Congress stops it.

It is so hard to get anything done here. We have had vast majorities—not only for the USA Freedom Act but for Thomas Massey's act. We had a vast majority over there to defund it—for JUSTIN AMASH, for defunding things that we were doing—big majorities. It is another evidence that the Senate is further distanced from the people, that the House is closer. They are hearing the message stronger.

I think the message is a strong one, and the message is that nobody—I mean, really, the vast majority of Americans are very unhappy with having all of their records collected. That really to me gets back to the whole idea of whether we should accept or validate general warrants. It is still part of my concern, a little bit, with the reform. I want the reform—it could go a long way if we no longer have the ability to put the word ''corporate'' in there and if it were specifically individuals. And I think we have a chance to go maybe even a little further than we have gone in the reform that is being offered to say that we shouldn't be able to request all of the records from a corporation, because there is some retained privacy and there is some retained property interest even in your records. And I think there always has been.

They talk about an expectation of privacy. I would think that if you have a contract, when you sign the agreement, you are agreeing to a privacy contract with an Internet provider or a search provider or a telephone company. I think that is indicating, as they talk about in the cases, an expectation of privacy. Well, I have signed an agreement with the company, and they promised me and I promised them. I would think that for certain is an expectation of privacy in the eyes of the court.

(Mr. RUBIO assumed the Chair.)

So I don't understand how they can argue we have completely given up our records, and that we have no ability at all to retain an interest in our records.

I am very much convinced this is an important debate—that the Bill of Rights is something that we shouldn't look at lightly; that we should, as we move forward, make sure we do protect the things that are important. We shouldn't hurry up and have deadlines, and then say we are not going to have time to debate it.

I see the Senator from Texas, who is also a defender of the Fourth Amendment, is here, and I would be happy to take a question without losing the floor.

Mr. CRUZ. I thank the Senator from Kentucky. I would note that he and I agree on a great many issues, although we don't agree entirely on this issue. But I want to take the opportunity to thank the Senator from Kentucky for his passionate defense of liberties. His is a voice this body needs to listen to.

I would note that the Senator from Kentucky's father spent decades in the House of Representatives as a passionate advocate for liberty. Both his father's voice and the Senator from Kentucky's voice have altered the debate in this Chamber and have helped refocus the Congress and the American people on the critical importance of defending our liberty.

I think protecting the Bill of Rights is a fundamental responsibility of the Federal Government. And it is heartbreaking that over the last 6 years we have seen a Federal Government that not only fails to protect the Bill of Rights but that routinely violates the constitutional liberties of American citizens and routinely violates the Bill of Rights.

I listened to the learned remarks and questions from the Senator from Utah, where he noted that under the justifications for the current bulk collection of metadata, it is the position of the Federal Government that they have the full constitutional authority not only to collect metadata but to collect the positional location of every American. If any of us carry our cell phone, wherever we go, it is the position of the Obama administration that the Federal Government has the full constitutional authority to track the location of every American citizen no matter where we are. That is a breathtaking assertion of power.

I would note that we do not merely need to speculate that that is the Obama administration's position. Indeed, in a recent case before the U.S. Supreme Court, the Obama administration argues that law enforcement could place a GPS locator on the automobile of any and every law-abiding citizen in this country and track the location of your automobile and my automobile with no probable cause, no articulable suspicion, no nothing.

The Obama administration argued that the Fourth Amendment and the Bill of Rights say nothing about the Federal Government placing a GPS locator on the automobile of private law-abiding citizens.

Thankfully, the U.S. Supreme Court rejected that position. It did not reject that position 5 to 4 or 6 to 3 or 7 to 2; the U.S. Supreme Court rejected that radical antiprivacy position of the Obama administration unanimously, 9 to 0.

I am entirely in agreement with my friend the Senator from Utah that the right resolution of the issue before this body is for the U.S. Senate to pass the USA FREEDOM Act. I am an original sponsor of that bipartisan legislation.

The USA FREEDOM Act does two things: No. 1, it ends the Federal Government's bulk collection of phone metadata for law-abiding citizens. I am entirely in agreement with my friend, the Senator from Kentucky, that the Federal Government should not be collecting the data of millions of law-abiding citizens with no evidentiary basis to do so. It is long past time to end this program, and the USA FREEDOM Act does that.

At the same time, the USA FREEDOM Act maintains the tools to target terrorists. We are living in a dangerous world with the rise of ISIS and Al Shabaab and Boko Haram, not to mention Al Qaeda and radical Islamic terrorism across the globe. The threat to the American homeland has never been greater.

It is critical that law enforcement and national security maintain the tools so that if there is a credible basis to believe that a particular individual is planning a terrorist attack, we can intercept their communications and we can prevent that terrorist attack before, God forbid, they murder innocent Americans in the homeland. Those critical words there are ''particular individual.''

What the Fourth Amendment envisions is not that law enforcement's hands are tied; law enforcement has tools to stop crimes. But as my friend the Senator from Kentucky has so powerfully observed, the Fourth Amendment was designed to prevent general warrants. It was designed to prevent the government from assuming that everyone in the country is automatically guilty and we will seize your information. Rather, the tools of law enforcement and national security should be particularized based on the facts of the evidence.

That is why I support the USA FREEDOM Act because it accomplishes both goals. It protects our privacy rights and the Bill of Rights of law-abiding citizens, but it ensures we have the tools to prevent acts of terrorists.

I would note two points that are important. There are a number of Members of this body, including a number of Members of my party and the party of this Senator from Kentucky, who argue that the PATRIOT Act should be reauthorized with no changes, and they argue to do anything else would jeopardize our national security.

There are two facts that are critical to assess to responding to that argument. No. 1, the Members of this body have received confidential classified briefings from the national security officers of this administration. We are not at liberty to convey the specific details of those briefings. But the Members of this body have been told, No. 1, the USA FREEDOM Act would provide effective tools so that we can prevent acts of terrorists.

Indeed, they have gone further to say that it is entirely possible that under the USA FREEDOM Act, the national security team would have more effective tools to stop actual terrorists than they do today under the bulk metadata collection of law-abiding citizens. That is worth underscoring. The national security professionals advising this body have said the USA FREEDOM Act could well be more effective in providing the tools to stop terrorists than the current status quo. That argument needs to sit in for everyone arguing that we have to maintain the status quo to stop terrorism. If it is the case, as we have been told, that the USA FREEDOM Act could be more effective, that argument suddenly falls to the ground.

Secondly, I address my friends in the Republican Party who have preferred to reauthorize the PATRIOT Act. Even if that is their preference, it is abundantly, abundantly clear that a clean reauthorization to the PATRIOT Act ''ain't'' passing this body and it certainly ''ain't'' passing the House of Representatives. I would note that the USA FREEDOM Act passed the House of Representatives 338 to 88. It was not a narrow victory. It was overwhelming. So even if Members of this body would prefer to reauthorize the PATRIOT Act in its entirety, the votes ''ain't'' there. So the choice they face is letting it expire altogether, losing the tools we have to prevent real terrorists from carrying out acts of terrorism or accepting a commonsense middle ground that vigorously protects the Bill of Rights while maintaining the tools to target the bad guys.

I will say this: With my friend the Senator from Kentucky, I entirely agree that he is fully entitled to introduce his amendments to that bill. This body should engage in a full and open debate considering amendments, and the Senator from Kentucky should be able to propose reasonable commonsense improvements to the USA FREEDOM Act.

We ought to debate them on the merits in a full and open process. There was a time not too long ago when this body was called the world's greatest deliberative body. Debate is what we are supposed to do on the merits.

If the defenders of the PATRIOT Act right now are so confident of their position, they should be prepared to debate the Senator from Kentucky on the merits, to debate each of the Members of this body on the merits, and to arrive at the right policy that both protects our constitutional rights and ensures we have all the tools we need to protect the safety of American citizens against acts of terrorism.

I will note standing here with the Senator from Kentucky and with the Senator from Utah at 11:40 p.m., I am reminded of the movie ''The Blues Brothers'' saying: Jake, we have got to get the band back together again. I am reminded of previous evenings standing here with this same band of brothers in the wee hours of the morning. I will make a couple of final observations in

this question. The first is, the very first time I ever spoke on the Senate floor, when I was a brand-new freshman Senator, was during the last time the Senator from Kentucky was filibustering. Senator RAND PAUL was filibustering against the Obama administration's policy of uncontrolled drone strikes and the refusal of the Obama administration to acknowledge that the Constitution prohibits the Federal Government from using a drone to target a U.S. citizen with lethal force if that citizen does not pose an imminent threat on U.S. soil.

When the Senator from Kentucky began that filibuster that morning, he had asked if I might come out and support him. I told him at the time, as a newbie in this body, that I wanted to respect the institutions of the Senate, which included the tradition that the freshman Senator should stay quiet for a number of months before speaking. So initially I said: No, I am not going to come down; it is not yet time for me to speak on the Senate floor. Yet he stood there and 1 hour and 2 hours passed. I could not stand back without joining him in the support in that epic fight. That time I am reminded it was an anniversary of the Battle of the Alamo. So I had the opportunity to read to my friend William Barret Travis's letter from the Alamo and to give him the encouragement of Texans who gave their lives in defense of liberty and, indeed, at the time to read tweets that were sent in support of the Senator from Kentucky. I said many times I will go to my grave in debt to Senator RAND PAUL for the first opportunity I had to speak on the Senate floor which was his epic filibuster.

I would also note that following that filibuster, Senator PAUL gave me two pieces of advice, both of which proved very helpful for a filibuster I was to do of my own several months later. Advice No. 1, he said, was wear comfortable shoes. I would note that I observed the last time Senator PAUL did that, he did not follow this advice. He had not planned to speak as long as he had. He told me his feet hurt for 2 weeks. I will confess, it was to my great shame that I am wearing today my argument boots, which I wear every day on the Senate floor. But when I filibustered on ObamaCare, I shamefully left my boots in the closet and went and purchased black tennis shoes. As the hours wore on, I was very grateful I had abided by Senator PAUL's good advice and wore the tennis shoes.

I would note, as I am sitting here today, that the good Senator is wearing tennis shoes today. So I am glad to see he follows his own advice, and I have no doubt that his calves and thighs will thank him tonight and in the morning.

The second bit of advice Senator PAUL gave me was to drink very, very little water. That was advice he acknowledged likewise he had not followed in his own filibuster. I will note that not too long ago I was sitting in the President's chair presiding, and the entire hour I was there, there was a glass of water on Senator PAUL's desk, and he did not drink a sip of it.

I will note that was advice I endeavored to follow. It was good advice, and I am glad to see my friend is following it as well.

This is an exceptionally important issue that this body should be focused on, the responsibility to protect the Bill of Rights and the constitutional rights of every American.

The question I would ask my friend the Senator from Kentucky is, is there any excuse for this body not taking seriously our obligation to protect the Bill of Rights and the constitutional rights of privacy of every American?

Mr. PAUL. I want to thank the Senator from Texas for joining in the battle to defend the Bill of Rights and the Fourth Amendment. I know he is sincere in that approach. There is absolutely no excuse, no excuse not to debate this and no excuse not to vote on a sufficient amount of amendments, to try to make this better, to try to make the bulk collection of records go away. That is what the American people want. It is what the Constitution demands. My voice is rapidly leaving. My bedtime has long since passed. I think it is time we summarize why we are here today and what my hope is for the future with this issue.

We have had a dozen Senators come down from both parties, from right, left, conservative, liberal, progressive, and Libertarian. We have had several friends come over from the House as well. There is a hunger in America for somebody to stand up, for all of us to stand up, for somebody to do the right thing, to say that the Bill of Rights needs to be defended, that the Bill of Rights is important.

When I think of the Bill of Rights, I think it is not so much for the popular person, it is not so much for the high school quarterback or the prom queen; the Bill of Rights is for the least among us and the Bill of Rights is to try to prevent any kind of systemic bias from entering into the law for the way we treat people. People say: Well, we collect all this data, but we are not abusing anyone. We are doing it perfectly in order.

I agree with Senator LEE that just the collection of the data is the infringement in itself. The whole idea that we could put one name on a warrant and collect 100 million records goes against everything we believe in. It goes against everything we fought for in the Revolution when we fought to be left alone. I think Justice Brandeis put it best when he said that the right to be left alone is the most cherished of rights, the most prized among civilized men, to be left alone in our castle, or in today's world, to be left alone in our cloud—the time has long since passed where we are going to have paper records—and that is going to be our exact home or exact castle that we are protecting.

The time is now in the digital age that we need to protect our privacy when we loan out our records, and it is different to loan out your records and allow them to be held by a telephone company or by an Internet provider or in the cloud. It doesn't mean you give up your right to privacy. I think you have an expectation of privacy with or without a contract, but often we have an explicit privacy agreement, an explicit privacy contract that we actually have with the phone company and Internet provider. They are supposed to protect our interests. It sends exactly the wrong signal to give liability protection to these companies and say to them that they can run roughshod with us and that they can give their information out.

The bulk collection must end, and I think we have the votes to do it now. We need to end the bulk collection of records, but that is not where this battle ends. There is still a question as to whether the Executive is gathering a great deal of information through Executive order. I think that has to be reviewed, and it has to be reviewed in public.

I agree with my friend Senator WYDEN that the specifics of intelligence—who the agents are, how we break code, how we technologically gather information—by all means does not need to be discussed in public, but whether we should collect all Americans' phone records all the time should be discussed in public. It should have been revealed in an honest way.

The fact that the Director of our National Intelligence lied to us and said the program didn't even exist I think is unforgivable and makes him unsuitable to lead our intelligence agency. We have to have trust. Because of this great and enormous power we allow our intelligence agencies to have, we have to have trust, and you cannot have trust when Congress is lied to.

I think, as we move forward today, we have made great strides in presenting arguments in the debate for how we would make things better, how we would better circumscribe this great and ominous power, and how we would better make this power conducive to the Constitution.

The ultimate success will be that we can actually change things, but part of the success will be that we have debated them today, and my hope is that the debate today will let the American public, as well as our leadership in the Senate, know that we are serious about this and that we want to vote on reforms and that we want to vote on several different ways we can fix this issue. If this issue comes up every 3 years, for goodness' sake, can't we spend a couple of days trying to amend this and make it better?

I thank the Senate staff for coming in and staying. I don't think they had much choice in the matter, but I thank them for staying and not throwing things. We will try not to do this but every couple of years or so.

I thank my staff for their help in a long day, and I thank the American people for considering the arguments and for helping us to hopefully push this toward the reform where we all respect the Fourth Amendment and the Bill of Rights once again.

I thank the Presiding Officer, and I relinquish the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. CASSIDY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

END OF AERIAL DRUG FUMIGATION IN COLOMBIA

Mr. LEAHY. Mr. President, I want to speak briefly about a recent decision of the Government of Colombia to end the aerial fumigation of coca.

Since the beginning of Plan Colombia 15 years ago, the United States, at huge cost, has financed a fleet of aircraft, fuel, herbicide, and pilots to spray coca fields in Colombia. When this first began we were told that in 5 years the spraying, along with billions of dollars in U.S. military and other aid, would cut by half the flow of cocaine coming to the United States.

Fifteen years later, that goal remains elusive. While the cultivation of coca has been reduced, aerial fumigation was never the solution to this problem. It is prohibitively expensive and unsustainable by the Government of Colombia. It also defies common sense. One Colombian official told me the cost of aerial fumigation is approximately $7,000 per hectare, while the cost to purchase the coca produced in one hectare is $400. In other words, for one-fifteenth the cost of aerial fumigation you could buy the coca and burn it.

The process also ignores the reality of rural Colombia where most coca farmers are impoverished and have no comparable means of earning income. Absent viable economic alternatives they resort to the dangerous business of growing coca, often at the behest of the FARC rebels or other armed groups.

The active ingredient in the herbicide used in the fumigation is glyphosate, a common weed killer. It is used by farmers and gardeners in the United States and other countries, including Colombia.

But controversy has plagued the aerial fumigation since its inception. It is no surprise that Monsanto, which manufactures the chemical, insists that glyphosate poses no threat to humans. But some Colombian farmers, whose homes are often located next to their fields, have claimed that they or their children suffered skin rashes, difficulty breathing, and other health problems after their property was sprayed. Others have complained that the herbicide has drifted into and destroyed licit food crops.

Scientists have studied glyphosate for many years and have differed about its safety. Some studies have concluded it is harmless. The Environmental Protection Agency says it has ''low acute toxicity.'' Others have linked it to birth deformities in amphibians. Most recently, the International Agency for Research on Cancer, IARC, an affiliate of the World Health Organization, reported that glyphosate is ''probably carcinogenic to humans,'' and that there is ''limited evidence'' that it can cause non-Hodgkin's lymphoma and lung cancer.

I have been concerned for years about aerial fumigation in Colombia. While I am no scientist, I have wondered how the people of my State would react to the repeated aerial spraying of a chemical herbicide in areas where they live, grow food, and raise animals. I have also noted the conflicting views in the scientific literature, and we are all aware of instances when manufacturers insisted that a product was safe only to discover years later—too late for some who were exposed—that it was not. And, of course, there have been times when companies knew of the risk and chose to either ignore it or cover it up, motivated by profit over the welfare of the public.

It is for these reasons that I have included a provision in the annual Department of State and foreign operations appropriations bill that requires the Secretary of State to certify that ''the herbicides do not pose unreasonable risks or adverse effects to humans, including pregnant women and children, or the environment, including endemic species.'' Each year, the Secretary has made the certification.

The IARC study changes things. Although glyphosate remains controversial and Monsanto points out that the IARC study is not based on new field research, President Santos has responded in the only responsible way unless further research definitively contradicts it. It would simply be unconscionable for the Government of Colombia to ignore a study by the World Health Organization that a chemical sprayed over inhabited areas is potentially carcinogenic.

I commend President Santos for this decision. I am sure it was not an easy one, as it will inevitably be blamed for increases in coca cultivation. But anyone who thinks that spraying chemicals from the air is a solution to the illegal drug trade is deluding themselves. It is enormously expensive and not something U.S. taxpayers can or should pay for indefinitely. It has already gone on for a decade and a half. And it does nothing to counter the economic incentive of coca farmers to support their families.

The Department of State reacted with the following statement:

> Any decision about the future of aerial eradication in Colombia is a sovereign decision of the Colombian government, and we will respect that. The United States began eradication at the government's request and our collaboration has always been based on Colombia's willingness to deploy this useful tool. Given the recent suspension, we intend to redouble our efforts to use other tools such as enhanced manual eradication; interdiction (both land and maritime); and improved methods to investigate, dismantle, and prosecute criminal organizations, including through anti-money laundering programs. We will also continue our longer-term capacity building programs, especially those related to rule of law institutions, and continue to help Colombia increase its governmental presence in the countryside as we recognize those to be the real keys to permanent change.

That was the right response. President Santos has staked his legacy on negotiations to end the armed conflict in Colombia. After five decades of war that have uprooted millions of people and destroyed the lives of countless others, a peace agreement would finally make it possible to address the lawlessness, injustice, and poverty that are at the root of the conflict. The United States should support him.

TRIBUTE TO POLICE CHIEF MICHAEL SCHIRLING

Mr. LEAHY. Mr. President, it is with great appreciation and a touch of sadness that I note the pending retirement of Michael Schirling, who has served as police chief of the city of Burlington, VT, with great distinction for the last 7 years.

His youthful appearance belies the fact that Chief Schirling has been with the department for more than 25 years, first serving as an auxiliary officer while still attending the University of Vermont.

Chief Schirling has held many titles over those years: patrol officer, detective, investigator, director, commander, deputy chief, and finally chief. In other words, this Burlington native rose through the ranks. And throughout this impressive career, Chief Schirling has always sought a better way to do the job.

Earlier in his career, he co-founded the Vermont Internet Crimes Against Children Task Force, which recognized the potential for abuse as the Internet came of age. The task force has been critical to the investigation and prosecution of high-technology crimes that target those who are most vulnerable.

After he took reins of the department, Chief Schirling grew concerned that officers were spending too much time on paperwork and data entry, taking precious time away from policing. In response he designed his own dispatch and records management software system. The Valcour system—

named after an island with historical significance on Lake Champlain—was launched in 2011. Not only has it proven more efficient, it has resulted in enormous cost savings for his department and others throughout Vermont that have since adopted it.

But perhaps most important, Chief Schirling has been a leader in understanding the importance of community policing. He stepped up foot patrols around the neighborhoods, stressing the importance of public engagement. He hosted community outreach events, including barbeques and monthly coffee sessions. He developed data-driven policing efforts to track the hot spots for crime. He implemented a street outreach program in coordination with the local mental health agency. The list goes on, but it is fair to say that the work of Chief Schirling will leave its mark on our State's largest city for many years to come. Chief Schirling recognized the value of 21st century policing long before we heard the term. For these reasons, I have often called on Chief Schirling to share his experience and ideas in testimony before the Senate Judiciary Committee. His guidance on issues of critical importance, including his support for the Bulletproof Vest Partnership Program, has been invaluable over these years.

Chief Schirling and the Burlington Police Department recently marked the 150th anniversary of the department, and I was grateful to be a part of that celebration. As he prepares for retirement, I have no doubt there is another chapter for Chief Schirling still to be written. I will eagerly await his next move.

LGBT VETERANS MONUMENT AT LINCOLN NATIONAL CEMETERY

Mr. DURBIN. Mr. President, this Memorial Day weekend, as our country remembers and honors those who have served America, a national cemetery in Elwood, IL, will make a distinguished mark on our Nation's history. Lincoln National Cemetery will become home to the Nation's first monument honoring fallen Lesbian, Gay, Bisexual, and Transgender, LGBT, veterans.

A recognition of our fallen LGBT service members is long overdue. This monument serves as a testament to those members of our military who have shown devotion to their country in the eyes of discrimination. It is in their memory that we move toward a more just and equal future.

The monument comes nearly 4 years after the repeal of Don't Ask Don't Tell. With repeal, our country took a step to move past the prejudices of the past and toward a day when all Americans can serve the country with honesty and pride. This monument recognizes that service with a fitting dedication that reads:

Gay, lesbian, bisexual and transgender people have served honorably and admirably in America's Armed Forces. In their memory and appreciation of their selfless service and sacrifice this monument was dedicated.

This monument serves as a reminder to all of us that it is our job to envision and create a more just and equal nation where there are no prerequisites to serve your country. All of our servicemembers join the military to serve America and make the world a better place. We must honor that service by making sure we continue to uphold those values of equality and justice at home that they have fought for abroad.

COMMEMORATING NORTH CAROLINA'S VETERANS AND SERVICEMEMBERS

Mr. BURR. Mr. President, this Memorial Day weekend is the 56th anniversary of Charlotte Motor Speedway's annual tribute that brings together more than 110,000 guests to celebrate our military patriots and reflect on their service and sacrifice. This event has remained one of the largest military recognition initiatives on Memorial Day weekend for more than five decades, honoring members of our armed services, veterans, Medal of Honor recipients, and remembering our fallen. This year's celebration continues their longstanding tribute by showcasing military aircraft in a patriotic flyover, infantry and artillery exhibits, ground demonstrations of our Nation's military strength, and a 21-gun salute to our fallen.

Our servicemembers courageously stand between America and those who would do us harm, volunteering to make the ultimate sacrifice to preserve freedom. I commend all of those in the racing community for their continued support and annual tribute to our men and women in uniform.

RECOGNIZING HOMEFRONT HEROES

Mr. BOOZMAN. Mr. President, May is recognized as National Military Appreciation Month. In addition to a time when we honor the men and women who wear our Nation's uniform, we must also remember our military families who make tremendous sacrifices.

These husbands and wives support our troops at home, during training missions and deployments. Military spouses are essential to the wellbeing of our service members and the strength of our national defense. We honor them with a special day honoring their role—National Military Spouse Appreciation Day.

Arkansas is home to thousands of military personnel. Their spouses are the homefront heroes who serve our country out of uniform. I asked Arkansans to share the roles their spouses play in their military career. I want to highlight some of the ways Arkansas National Guard spouses support their partners' call to service.

MSG Tracy Onassis Hayes and her husband, Cedric, have been married just over 1 year. Master Sergeant Hayes says her husband had no idea what he was getting into when he married a soldier. He has had to deal with the early mornings, late nights, and long weeks of her being away from home all while taking care of their 15-year-old son Ke'cy and making certain he gets to school, practice and all his other events while Master Sergeant Hayes travels out-of-State for training. He also makes sure the family pets are well cared for all while maintaining a traveling choir of over 30 children. Master Sergeant Hayes shared with me:

He makes it look easy. My husband's support of the past year has made serving a whole lot less stressful. I am very thankful for his love and support. He is my hero. Thank you Cedric for your commitment.

Naomi Howard is familiar with military life as the daughter of CW4 Arthur Troy. The military also paved the way for her love connection to her husband SFC James Howard. The couple met after James attended the Employer Support of the Guard and Reserve, ESGR, briefing given by Naomi upon his return from deployment to Egypt. The couple spent the first 14 months of their marriage apart while James was deployed with the HHC 39th IBCT to Iraq.

In 2004, the couple settled into a routine life in Cabot, AR, with James serving on Active Guard/Reserve duty, and Naomi working as a civilian at the National Guard Bureau Professional Education Center. In 2007, James deployed to Iraq again and was away from home for more than 1 year. James told me:

During this time Naomi did an amazing job raising four young children on her own. Since then, Naomi has continued working at the National Guard Bureau's Professional Education Center and supporting me in my continued military service. Being in the military requires long hours and time away from home, yet my wife has continued to support me, more than I could have ever imagined.

Not only is she a strong support for her husband and children, but she is doing this all while working and attending college as a full-time student. She was named to the Central Baptist College President's List for Fall 2014 for maintaining a 4.0 GPA. ''She juggles more than I could ever imagine and she excels at doing so,'' James said.

Wanda Thomen has been married for 28 years to Deputy Commander CPT Rex Thomen of the 61st CST/WMD and is a mother of two children, Myranda and Phelan. Wanda served as an active duty airman and was honorably discharged in March 1998. Her prior service experience helps her to understand both sides, as a servicemember and as a spouse. She previously served as president of the Auxiliary of the National Guard Association of Arkansas whose motto is ''The Other Half.'' She also worked as the 39th Infantry Brigade Combat Team Family Readiness Support assistant. She has been supportive during deployments, injuries, illness, and everyday activities as her husband continues his military career and

Wanda continues to give back to the troops and their families.

Thank you to Cedric, Naomi, Wanda, and all of our military spouses for your support at home while your loved one is away defending our Nation. We thank you for your dedication and commitment to our Armed Forces, your family and extended military family.

HONORING WEST VIRGINIA VETERANS

Mrs. CAPITO. Mr. President, I wish to welcome some of West Virginia's most outstanding citizens to Washington. This week, as part of the fifth annual Always Free Honor Flight Program, we will recognize veterans from my home State for their dedicated commitment to our country. In light of West Virginia's proud tradition of military service, it gives me great pleasure to honor these brave men and women who answered the call of duty during America's hour of need.

Since its inception, the Always Free Honor Flight Program has taken up the important task of thanking those to which we owe our deepest gratitude. As the daughter of a World War II veteran, this is something very near and dear to my heart. This year, we are joined by 29 Vietnam, Korea and World War II veterans from all across southern West Virginia.

These brave patriots sacrificed the comforts of home to defend the cause of freedom in a foreign land. The perseverance of our soldiers during these conflicts cannot be overstated. These individuals embody the extraordinary sacrifice exhibited by our service men and women throughout the greatest conflicts of the 20th century.

One veteran on this year's trip, SGT John M. Watson, Jr., who served with the renowned Tuskegee Airmen, will be honored with the Congressional Gold Medal for his service during World War II.

In addition to Sergeant Watson, West Virginia veterans participating in this year's Always Free Honor Flight Program include Joseph F. Graham, Bluefield, WWII; Staff Sergeant Robert Graham, Hinton, WWII and Korean war; First Sergeant Melvin L. Grubb, Bluefield, WWII and Korean war; Staff Sergeant Robert G. Kushner, Charleston, Korean war; Airman First Class Herbert R. Dickerson, Beckley, Korean war; Corporal Billy G. Cooper, Milton, Korean war; Corporal James W. Bennett, Charleston, Korean war; Richard L. Graham, Beckley Korean war; Petty Officer Second Class William B. Sowers, Princeton, Korean war; Petty Officer Third Class Charles E. Turley, Scott Depot, Korean war; Colonel Jack E. Fincham, Brenton, Vietnam war; Sergeant Philip Templeton, Milton, Vietnam war; Petty Officer Second Class John W. Fleming, Princeton, Vietnam war; Master Sergeant Edward F. Simmons, Bluefield, Vietnam war; Airman Second Class Nancy J. Simmons, Bluefield, Vietnam war; Sergeant Fred R. Smith, Hurricane, Vietnam war; Sergeant Marshall G. Mann, Princeton, Vietnam war; Sergeant James R. Bond, Midway, Vietnam war; Senior Airman Allan D. Harbour, Princeton, Vietnam war; Sergeant First Class Andrew J. Thompson, Bluefield, Vietnam war; Captain Charles H. Mann, Athens, Vietnam war; Seaman Thomas E. Caruso, Lashmeet, Vietnam war; Sergeant Gordon L. Caldwell, Jr., Bluefield, Vietnam war; Lance Corporal Ricky D. Williams, Beckley, Vietnam war; Senior Airman Mary Byrd, Nitro, Vietnam war; Corporal Johnny L. Sanson, Cyclone, Vietnam war; Sergeant Dennis C. Hurley, Cyclone, Vietnam war; Corporal William Cox, Bluefield, Vietnam war; and Corporal William L. Harry, Butler, TN, Korean war.

Veterans participating in the Honor Flight as ''guardians'' include Command Sergeant Major Kevin L. Harry from Milton; Sergeant First Class Mark A. Harry from St. Albans, and Specialist Selena K. Barker of Milton. These men and women are voluntarily dedicating their time to helping ensure that our veterans receive the thank-you they deserve.

A great debt of gratitude is also owed to Dreama Denver, president of the Denver Foundation and Little Buddy Radio. These nonprofit organizations, which were founded by Dreama and her husband, Bob Denver, established the Always Free Honor Flight Network in West Virginia.

I am so proud of the service and sense of duty that defines the American people. As the beneficiaries of that service, one of the most sacred tasks we hold is properly honoring the dedication of our veterans. In bringing them together with the symbols of their sacrifice, we can express our unyielding gratitude while demonstrating our lasting commitment to preserving their memory. One of the greatest honors of serving in the United States Senate is representing citizens who have given so much to their country. I take seriously the duty of ensuring that their sacrifice is honored with the same steadfast conviction with which they defended the rights and freedoms of every American. Today, I ask my colleagues to join me in welcoming and thanking these exceptional West Virginia veterans.

RECOGNIZING KAREN LOVE

Mr. PORTMAN. Mr. President, I wish to recognize Karen A. Love upon her retirement from the Department of Defense, DOD, after over 36 years in civil service.

Karen was born in Greenville, OH and later moved to Ansonia, OH. She spent most of her formative years in Celina, where she attended the Immaculate Conception School, Celina Junior High School and Celina High School.

After graduating magna cum laude from college, Karen moved to Washington, DC to begin her career. She first worked for the Senate Banking, Housing, and Urban Affairs Committee and then moved to the Senate Armed Services Committee. While working for the Armed Services Committee, Karen had the privilege to work for chairmen on both sides of the aisle including John Stennis, John Tower, Barry Goldwater, and Sam Nunn.

After 8 years as a staffer on Capitol Hill, Karen joined the Office of the Assistant Secretary of Defense for Legislative Affairs, OASD LA. She subsequently served as the personal and confidential assistant to six successive OASD LAs. As a result of her tenure in OASD LA, Karen was one of few DOD employees with significant institutional knowledge of both DOD and Congress.

Because of her unique expertise, Karen was promoted to the position of Deputy for Legislative Operations in OASD LA, managing congressional committees' questions and inserts for the RECORD, the congressional reporting requirements, and the legislative appeals process for DOD. Karen's last position with DOD was as the Deputy Director for Operations for the OASD LA, where she was instrumental in the oversight of the office's operations in support of the DOD's legislative mission and was a critical participant in the legislative affairs consolidation effort directed by the Deputy Secretary of Defense.

During Karen's distinguished career of over 28 years with DOD, she supported eight Assistant Secretaries of Defense for Legislative Affairs and served under eleven Secretaries of Defense.

I am honored to recognize and thank Karen for her dedicated Federal service to the country and wish her the best as she begins the next chapter of her life.

SOUTH BEND, INDIANA 150TH ANNIVERSARY

Mr. DONNELLY. Mr. President, I wish to honor the city of South Bend on its 150th anniversary and to recognize the many contributions of South Bend's citizens to the great State of Indiana, to our country and the world.

South Bend's history stretches back to the 1600s, when the St. Joseph Potawatomi settled along the future St. Joseph River. European settlers established fur trading posts in the early 19th century. Soon after, Father Edward Sorin arrived and founded the University of Notre Dame. Less than a decade later, in 1851, the first train passed through South Bend and development and economic growth soon followed. The town of South Bend became the city of South Bend on May 22, 1865, when it was granted a city charter.

The city of South Bend quickly became a manufacturing leader and continues to innovate to this day. In 1852, Henry and Clement Studebaker opened the H&C Studebaker blacksmith shop.

After the Studebakers' younger brothers joined them, they became the Studebaker Brothers Manufacturing Company. Studebaker became the world's largest wagon and buggy manufacturer and then entered the automotive industry. The company had some famous customers, such as Thomas Edison, who purchased the second Studebaker electric car in 1902. The Studebaker Corporation would go on to bring opportunity and hundreds of jobs to families across northern Indiana.

As business boomed for the Studebaker Corporation, new businesses opened and South Bend grew. In the early 1900s, the Bendix Corporation, Honeywell, the South Bend Toy Company, AlliedSignal, and other well-known companies opened their doors. Like many communities across the country, South Bend changed with the times. Companies, like Studebaker, were forced to close their doors, but the innovative spirit of South Bend carried on. Now, South Bend is taking its manufacturing roots in a new direction, creating a high-tech hub in northern Indiana. Transforming old factory grounds into the high-tech Ignition Park, the city has opened its doors to data centers and turbomachinery research. There are many exciting entrepreneurial efforts that will continue to create jobs and opportunities for South Bend residents.

Today, South Bend is one of the largest cities in Indiana and has a population of more than 100,000 citizens. The city is not only critical to Indiana's economy but also a top destination for visitors to our State. Top attractions in the South Bend area include Potawatomi Park Zoo, the Studebaker National Museum, South Bend Chocolate Company, and the nearby University of Notre Dame.

A center of world-renowned academic excellence, the University of Notre Dame grew from a small school for boys founded by Father Sorin in 1842 to one of the most prestigious universities in the country. With excellent academic and athletic programs, Notre Dame attracts students from around the Nation and about 90 different countries. Important to our South Bend community, the university is the area's largest employer and an active member of the community. Our community is home to other outstanding higher education institutions, including, St. Mary's College, Holy Cross College and Indiana University at South Bend, which draw the best and brightest students from across the State.

The city of South Bend also has a long history of outstanding public servants. Vice President Schuyler Colfax was a South Bend native, serving as Congressman, then Speaker of the House during the Civil War, and finally as Vice President to Ulysses S. Grant. Former Indiana Governor Joe Kernan once led the city as mayor and continues to call South Bend home. Former Congressman John Brademas, a South Bend Central graduate, was an active participant in the civil rights movement, working hard to both integrate schools and increase their funding across the entire country.

Today, I also congratulate the current leaders of South Bend: mayor Pete Buttigieg, the members of the South Bend Common Council, and all of the other hardworking city officials for their many contributions to making this ''21st Century City'' the thriving city it is today.

The city of South Bend reflects our Hoosier values, and its citizens serve as an example of how hard work and dedication lead to success, opportunity, and prosperity. I came to South Bend as a student in 1972. I was privileged to have met my wife and raised our family here. And today, we continue to call the South Bend community our home.

It is also a great honor to represent the city of South Bend in the Senate. On behalf of the State of Indiana, I congratulate each and every citizen of South Bend on the city's 150th anniversary and wish you an equally bright and prosperous future.

ADDITIONAL STATEMENTS

HOPKINTON, NEW HAMPSHIRE 250TH ANNIVERSARY

● Ms. AYOTTE. Mr. President, today I honor Hopkinton, NH—a town in Merrimack County that is celebrating the 250th anniversary of its founding. I am proud to join citizens across the Granite State in recognizing this special milestone.

Hopkinton, previously known as New Hopkinton by the original settlers from Hopkinton, MA, was incorporated in 1765 by colonial Governor Benning Wentworth, and included the three communities of Hopkinton, Contoocook Village, and West Hopkinton. As a centrally located town, Hopkinton gained an influential reputation. Its farms thrived on fertile land fed by local bodies of water and businesses continued to prosper as State leaders and prominent business owners moved to the area to be closer to the center of activity.

As the town's influence grew, it came to be known as one of the most powerful locations in the State. Coincidentally, the New Hampshire Legislature met in Hopkinton four times during the years of 1798 to 1807. The civic-minded residents of the town later petitioned for Hopkinton to become the State's capital city, but the neighboring town of Concord eventually won the bid in 1814 and now houses the New Hampshire Legislature.

Hopkinton is home to two historic covered bridges, including the Rowell's Bridge that was built in 1835 and the Contoocook Railroad Bridge that spans the beautiful Contoocook River and is the oldest covered bridge of its kind in existence. With 1290 acres of protected land, Hopkinton is rich in natural beauty with sprawling forests, numerous hiking and biking trails, as well as access to countless outdoor activities including canoeing, kayaking and cross country skiing.

The town's population has grown to over 5,500 residents, but their record of service is indicative of a much larger town. The people of Hopkinton have a strong commitment to the spirit of community and volunteerism, as evidenced by the hard work and dedication of its residents involved with the planning and celebration of the 100th anniversary of the renowned Hopkinton State Fair this coming September and the town's special sestercentennial anniversary.

Hopkinton and its residents have greatly contributed to the life and growth of New Hampshire. I ask my colleagues to join me today in extending congratulations to the people of Hopkinton as they celebrate the town's 250th anniversary.●

TRIBUTE TO DIANE JUERGENSMEYER

● Mr. BLUNT. Mr. President, I wish to honor Diane Juergensmeyer of St. Elizabeth, MO, for her dedication and service to St. Elizabeth High School, her community, and the entire State of Missouri. From 1980 through 2010, Juergensmeyer coached St. Elizabeth High School's women's softball team to 489 victories, including 358 fall championship wins, while also teaching reading skills, English, speech, and drama in the classroom.

Overall, the St. Elizabeth Lady Hornets won eight conference titles under her leadership, not to mention three Class 1 State championship titles in 1992, 1994, and 2002, and another as an assistant in 2011.

As the daughter of Leonard and Marie Schanzmeyer, Juergensmeyer grew up in a large family on a farm where a fundamental respect for hard work and competition were instilled in her at a young age. She played on St. Elizabeth's first softball team and has remained a key contributor to the growth of the sport's popularity as it is seen in Missouri today.

After graduating from St. Elizabeth High School in 1976, she attended Central Missouri University. Shortly after graduating from Central Missouri University, she returned to her local high school to coach, teach, and even drive the bus. Her dedication to her community has remained constant and has remained a force in her efforts to make the St. Elizabeth Lady Hornets the respected softball program that it is today.

In addition to her coaching and teaching careers, Juergensmeyer served on the Missouri Softball Advisory Committee for 8 years and the National Federation Softball rules committee for 4 years. She was also named the 115th District's Outstanding Missourian in 2004.

Diane Juergensmeyer has played a major role in the success of the Lady

Hornets and the St. Elizabeth community, and her legacy will continue to impact future generations through the foundations she helped put in place, so her induction into the Missouri Sports Hall of Fame comes as no surprise. I congratulate Coach Juergensmeyer on her many successes and wish her the best in her future endeavors.●

RECOGNIZING ROD DANIELS

● Mr. CARDIN. Mr. President, I wish to recognize WBAL-TV 11 anchorman Rod Daniels for his career of journalistic service to the residents of the Greater Baltimore area. Mr. Daniels has been a trusted voice on WBAL-TV 11 for more than 30 years, and his steady and colorful reporting has remained consistent and creative throughout that time. On the occasion of his final nightly broadcast, which will occur this Friday, I would like to thank Mr. Daniels both for his years of service and his dedication to bringing viewers the nightly news with a regular measure of hope.

At the time of his retirement, Mr. Daniels will have distinguished himself as the longest continually serving nightly news anchor in the Baltimore media market, no small accomplishment against the backdrop of industry-wide newsroom downsizing that has characterized the media business during much of his career. Mr. Daniels came to Baltimore in 1984 and has been there for the city through tragedies like the 9/11 attacks and all-too-recent riots following the death of Freddie Gray. His exclusive coverage when the Roman Catholic Church elevated Baltimore archbishops to its College of Cardinals rightly garnered national awards. So it was no surprise, then, that Baltimore turned to Mr. Daniels when it was time to host the welcome celebration for Pope John Paul II at Camden Yards, an enormous compliment and honor.

Throughout his career, Mr. Daniels has shown an ongoing commitment to craft, charity, and community. He has spent countless hours speaking to school groups, serving on the boards of organizations like the National Aquarium in Baltimore, and hosting events to battle deadly diseases like cystic fibrosis and cancer. Mr. Daniels even has taken the Polar Bear Plunge into the frigid waters of the Chesapeake Bay to help a worthy cause, while finding the time to film public service announcements against animal cruelty.

Mr. Daniels began his career as a weekend sports anchor at WIS-TV in Columbia, SC. He then moved to WTAE-TV in Pittsburgh as a weekend anchor and reporter, and then moved to WISN-TV in Milwaukee. Mr. Daniels is an alumnus of William Patterson University in Wayne, NJ, and received the Legacy Award for Distinguished Alumni from the William Patterson University Foundation in 2011. He also has completed enrichment programs through the Community Film Workshop Council.

I ask my colleagues to join me in expressing sincere appreciation and congratulations to Mr. Daniels for his many contributions and accomplishments throughout his distinguished career.●

CONGRATULATING ESTHER B. NEWMAN

● Mr. CARDIN. Mr. President, I wish to recognize Esther B. Newman, the founder and chief executive officer of Leadership Montgomery, a not-for-profit community organization dedicated to public service and management training in Montgomery County, MD. Mrs. Newman's vision of compassionate outreach, effective and inspirational leadership, and community improvement have long nurtured the people of Montgomery County, effecting positive change for nearly 40 years.

Ms. Newman was born and raised in Washington, DC. She began her secondary education while balancing the responsibilities of motherhood. She graduated from Montgomery College, one of Maryland's premier community colleges, with an associate's degree in mental health in 1975. She later earned a B.A. in human service administration from Antioch University and an M.S. in applied behavioral science from Johns Hopkins University.

The foundations of Ms. Newman's legacy of public service were established shortly after her graduation from Montgomery College when she established the Family Life Center of Montgomery County in 1976, where she served as director until 1979. She then transitioned into work at Olney, MD's Montgomery General Hospital as a public relations consultant, simultaneously contributing to the local Courier-Gazette newspapers as a community correspondent and serving as an officer on the Upper Montgomery Community Mental Health Center Citizens Advisory Committee.

Throughout the 1980s, Ms. Newman continued to serve in an extensive capacity across Montgomery County, encompassing a diverse portfolio of health care focused outreach, volunteer service, and civic leadership positions. In 1981, Ms. Newman joined the Olney Chamber of Commerce and became a board member in 1984. By 1983, she had moved into a leadership role as the program director of the YWCA of Montgomery County and later joined the Montgomery County Chamber of Commerce, where she held the role of executive director from 1986 through 1988.

As the decade drew to a close, Ms. Newman drew on her years of public service and leadership experience and formulated a curriculum of management training retreats, lectures, and educational guidelines. She worked with the late Larry Pignone of the United Way to establish Leadership Montgomery in 1989, where she has served as director ever since. The core program of Leadership Montgomery, which incorporates youth, business executive, senior, and emerging leader training modules, is aimed at inspiring the next generation of business and civic leaders in Montgomery County and beyond. Above all, Leadership Montgomery strives to establish a more inclusive management community, comprised of leaders of diverse backgrounds and perspectives.

In the 26 years since its founding, Leadership Montgomery has enriched and educated more than 2,000 graduates. The success of this mission is reflected in the program's accomplished alumni, with local Board of Education members, Circuit Court judges, members of both the Maryland Senate and House of Delegates, and Montgomery County Councilmembers among them.

Throughout her career in public life, Esther Newman has also helped to raise more than $5 million in contributions for scholarships and programs, in addition to nearly $3 million of in-kind donations. For her unparalleled commitment to service, generosity, and tireless devotion to the betterment of Montgomery County, she has been recognized with numerous accolades, including Jewish Women International's Women to Watch Community Leadership Award in 2011, the Corporate Volunteer Council President's Award in 2009, the Victims' Rights Foundation's Game Changer Award in 2014, and an honorary degree in public service from her alma mater Montgomery College in 2002.

Ms. Newman will be retiring from her position as director of Leadership Montgomery in September, after more than a quarter-century of education and guidance. Her compassionate spirit, inspirational leadership, and unwavering devotion to civic improvement have long inspired the greater Montgomery County community. Many of the people Ms. Newman have touched have taken the lessons that they have learned at Leadership Montgomery into business and government. Though she will soon step down as a director, I have no doubt that Ms. Newman will continue to be involved in the community and will continue to inspire others to enter leadership roles. I ask my colleagues to join me is wishing her all the best for a restful and fulfilling retirement.●

TRIBUTE TO DAVID G. BAKERIAN

● Mr. CARPER. Mr. President, it is with great pleasure that I rise on behalf of the Delaware delegation to honor the service of David G. Bakerian upon his retirement as president, CEO and treasurer of the Delaware Bankers Association. David has dedicated the past 22 years of his life to helping lead the banking industry and keeping it alive and thriving in Delaware for the countless people it employs and serves.

As president of the Delaware Bankers Association, David's priority has been to ensure that a significant part of America's banking industry—one of Delaware's top employers—maintained

its home in in the First State and continues to thrive while serving customers in the First State and around the world. Tens of thousands of Delawareans rely on the good jobs that our State's financial services provide, jobs that have enhanced the lives of many. Dave is known for being honest, and even if someone didn't always like the answer, they respected him for doing the right thing, not what was easy or expedient. He also is admired for his positive, can-do attitude regardless of the magnitude of the challenges he and the members of the Delaware Bankers Association have faced over the years.

Over more than two decades, David has worked with three Governors and testified before and advised 11 separate Delaware General Assemblies on a variety of banking legislative matters, including credit cards, trust administration, interstate banking and branching, foreclosure mediation, and consumer protection. In 2001, David led the Delaware Bankers Association in a cooperative venture with the University of Delaware's Center for Economic Education and Entrepreneurship, the Federal Reserve Bank of Philadelphia, and the Consumer Credit Counseling Services of Delaware and Maryland to form Keys to Financial Success, a high school credit course focusing on financial literacy. The program is still offered today in 28 high schools in Delaware with more than 4,200 students participating. In 2004, David was elected to a 1-year chairmanship of the State Association Division of the American Bankers Association. In this role, he became the national spokesperson for the 50 State bankers associations and held a seat on the American Bankers Association board of directors. He is the only Delawarean ever to serve in this national leadership role. His service in that role is a source of pride to our State.

While David is passionate about banking, he actually began his career in education and studied to become a college professor. He possesses a remarkable ability to write clearly and communicate effectively. Those skills have helped him go on to such a successful career in banking, in part because of his ability to explain highly complex issues to almost anyone and everyone. His passion for education can be seen in his own academic achievements. After receiving his bachelor's degree from Siena College in New York, he went on to receive a master's degree from the University of West Florida and a postgraduate certificate in higher education administration from the University of Pennsylvania. Prior to his appointment at the Delaware Bankers Association, he served as executive director of the Delaware Chapter of the American Institute of Banking. He began his tenure at Delaware AIB in 1985 and oversaw the educational unit.

Through his tireless efforts, David Bakerian has made a positive difference in not only the banking community but the education community and the community writ large. I am delighted to salute David and thank him for his many years of service to Delaware and to congratulate him on a truly remarkable and distinguished career. I know he looks forward to spending more time with his grandchildren in his garden and refining his culinary skills in the kitchen. In closing, on behalf of the people of Delaware, as well as on behalf of Senator COONS and Congressman CARNEY, I want to wish David and his wife Pam, his son Nick, and his daughters Alex and Catherine, along with his son-in-law Jeff and his grandchildren Adam and Madeline, the very best in all that lies ahead.●

TRIBUTE TO DEBORAH BLONG

● Mr. DAINES. Mr. President, I wish to commend Deborah Blong from Missoula, MT, who was recently recognized as the recipient of the American Network of Community Options and Resources 2015 Direct Support Professional, DSP, of the Year Award for the State of Montana.

This award recognizes Ms. Blong's dedication and hard work every day in her efforts to support members of the Montana community with intellectual, developmental, and other significant disabilities. Ms. Blong's selflessness is clear. In addition to taking care of her husband who suffers from Parkinson's disease, she manages a home with eight residents—four have Prader-Willi syndrome and three others struggle with chronic obstructive pulmonary disease. She works 14-hour days, often 6 to 7 days a week.

Deborah Blong makes a difference each and every day for those whom she cares for. For 20 years, Ms. Blong has been a positive influence on those around her. For her efforts, Ms. Blong has earned the thanks of a grateful State.●

CONGRATULATING NOELLE VERHELST

● Mr. HELLER. Mr. President, today, I wish to congratulate Noelle Verhelst on being selected not only as Nevada's Cherry Blossom Princess for the 2015 Centennial Cherry Blossom Festival in Washington, DC, but also on being selected as U.S. Cherry Blossom Queen. Ms. Verhelst is the first Nevada Cherry Blossom Princess to be selected as U.S. Cherry Blossom Queen, a well-deserved accolade.

Ms. Verhelst is a shining example of someone who truly cherishes the Silver State. She was raised in Las Vegas and attended the University of Nevada, Las Vegas, receiving her bachelor's degree in political science. Prior to moving to Washington, DC, she worked in Governor Brian Sandoval's Office of Economic Development. She currently works for Congressman JOE HECK (NV–3) as a legislative correspondent. Her dedication and service to the great State of Nevada are greatly appreciated.

Ms. Verhelst was chosen in February by the Nevada State Society to represent Nevada in the National Conference of State Societies and the Cherry Blossom Princess Program. Nevada is proud to support one of our own as she joins young women from across the Nation in community involvement and educational, leadership, and cultural activities throughout the year. In April, she was selected as U.S. Cherry Blossom Queen at the Official Cherry Blossom Grand Ball and Coronation of the United States Cherry Blossom Queen, a tradition that began in 1948. As U.S. Cherry Blossom Queen, Ms. Verhelst will have the opportunity to represent both the Silver State and the United States while she visits the Japan Prime Minister, Shinzo Abe, during her official United States Cherry Blossom Queen Goodwill Ambassador trip in May.

I am proud to recognize Ms. Verhelst on her excellent representation of Nevada in her role as Nevada Cherry Blossom Princess and U.S. Cherry Blossom Queen. She should be proud of her achievements.

I join the citizens of Nevada in congratulating Ms. Verhelst on her accomplishment and wish her all the best during her United States Cherry Blossom Queen Goodwill Ambassador trip and in all of her future endeavors.●

CONGRATULATING DR. COLLEEN CRIPPS

● Mr. HELLER. Mr. President, today, I wish to congratulate Dr. Colleen Cripps on her retirement after serving the great State of Nevada for 25 years with the Nevada Division of Environmental Protection, NDEP. It gives me great pleasure to recognize her years of hard work and commitment to making the Silver State the best it can be.

Dr. Cripps stands as a true example of someone who has spent many years dedicated to her home State. She was born in Ely, NV, and she received her master of arts in public administration and her doctor of philosophy in biochemistry from the University of Nevada, Reno. Throughout her career with NDEP, Dr. Cripps served as chief of the Bureau of Air Quality; deputy administrator, responsible for the agency's Air, Waste, and Federal Facilities Bureau; and acting administrator and administrator of NDEP. Her positive legacy in the department will be felt for years to come.

Dr. Cripps' commitment to her cause goes beyond her career. She served on numerous industry-related boards, such as the National Association of Clean Air Agencies, NACAA's, executive board from 2003 to 2009, serving as president, and the Western States Air Resources Council's board, serving on the executive committee and as vice president. She also represented Nevada in the Western Regional Air Partnership and was one of Nevada's observers in the Western Climate Initiative. Her years of service to the Silver State are invaluable.

I am grateful for her dedication to the people of Nevada. She exemplifies the highest standards of leadership and service and should be proud of her long and meaningful career. Today, I ask all of my colleagues to join me in congratulating Dr. Cripps on her retirement, and I give my deepest appreciation for all that she has done to make Nevada a better place. I offer her my best wishes for many fulfilling years to come.●

TRIBUTE TO JOE LOMBARDO

● Mr. ISAKSON. Mr. President, it is an honor today to personally recognize Mr. Joe Lombardo, who will soon retire from Gulfstream Aerospace in Savannah, GA for his significant contributions to the aviation industry. His forethought, leadership, and commitment to improving the industry are evidenced in his 40 years of hard work.

Beginning in 1975, Mr. Lombardo helped pave the way for the future of flight. He started at Douglas Aircraft, a division of McDonnell Douglas Corporation, working on the DC–10/MD–11 Trijet program Mr. Lombardo was later responsible for the MD–88/MD–90 Twinjet production operation.

In 1996, after 20 years at Douglas Aircraft, Mr. Lombardo joined Gulfstream Aerospace in Savannah. There he held positions as the vice president of coproduction and the chief operating officer. He also served as president from 2007 to 2011 and as the executive vice president of the Aerospace Group for General Dynamics, Gulfstream's parent company.

During his tenure at Gulfstream, Mr. Lombardo was instrumental in the coproduction of the Gulfstream IV-SP and Gulfstream GV and the development of the Gulfstream G650 and the Gulfstream G280.

Mr. Lombardo's contributions extend to his community where he served on the Corporate Angel Network's board of directors and as the chairman of the Board of Governors of Ocean Exchange. He is the recipient of the National Management Association's Silver Knight Award and was awarded the Cliff Henderson Trophy by the National Aeronautic Association in 2012 for his aviation leadership.

It is my pleasure to join Mr. Lombardo's colleagues, family, and friends in celebrating his dedicated career and his many contributions to the aerospace industry and community.●

REMEMBERING BOBBY ANDREW

● Ms. MURKOWSKI. Mr. President, I wish to recognize a man who was well known across my State, and in many circles across our Nation. Bobby Andrew, an Alaska Native Yupik leader, passed away on May 12 at the age of 73 near Aleknagik in southwest Alaska.

Aleknagik is 16 miles northwest of its hub community of Dillingham, a small town of about 2,500 residents, which sits at the confluence of the Nushagak River, an inlet of Alaska's Bristol Bay.

Bobby was seen as a leader by many Native and non-Native Alaskans. At a young age Bobby attended territorial and BIA schools in Southwest Alaska and then went off to Ohio to earn an accounting degree from Dyke Spencerian Business College, now known as Chancellor University in Cleveland. He then returned home to bring his education back to Alaska.

Bobby was a lifelong subsistence hunter and fisherman who was respected by many across the State. He taught many of the importance of traditional knowledge and passing along important Alaska Native values.

Bobby was a known advocate for land and water protection in Alaska. As a writer and public speaker Bobby took his advocacy across the State, Nation, and overseas. He often visited places like Juneau, Washington, DC, and London when asked to speak about Alaska. It was said about Bobby that ''anywhere he was needed, he would go . . .''

Bobby was once quoted saying, ''I find myself fighting for the future of our renewable fish and wildlife resources. They are the central part of my culture,'' he said. ''We need to let the rest of the world know so we can all work together to protect the environment, air, water and lands that produce subsistence resources on which we depend.''

Bobby loved Alaska, loved his family—especially his grandchildren—and he was an important voice for Alaska. He passed naturally at his cabin, a place he loved, where he went to rest after fishing. He will be missed.●

RECOGNIZING COLONEL KEVIN KENNEDY

● Mr. THUNE. Mr. President, today I recognize Colonel Kevin Kennedy, commander of the 28th Bomb Wing, Ellsworth Air Force Base, near Rapid City, SD. Colonel Kennedy has been the commander at Ellsworth for the past 2 years, and has served in his position admirably.

Colonel Kennedy began his career at the Air Force Academy in Colorado. He is a B–1 pilot who went on to serve at Ellsworth on multiple occasions, including as deputy commander of the 28th Operations Group as recently as 2010. During his career he also served as the vice commander of the 379th Air Expeditionary Wing in South West Asia and as the director of the Air Force Strategic Study Group at the Pentagon here in DC.

When he came back to Ellsworth 2 years ago as base commander, my office was working with the Air Force on a 9-year project to expand the Powder River Training Complex, which is the primary training airspace for the B–1 bombers based at Ellsworth, as well as the B–52 bombers based in Minot Air Force Base, ND. When Colonel Kennedy arrived at Ellsworth as base commander, he made the completion of the Powder River Training Complex one of his top priorities, and he assured me that this airspace expansion would be completed under his watch. This was not a pledge he took lightly. Be it emphasizing the need for this airspace within the Air Force hierarchy or driving out to Montana to meet with Native American tribal leaders, Colonel Kennedy was willing to go the extra mile to bring this airspace home.

As a result of his efforts, in January of this year the Air Force signed the Record of Decision for the Powder River Training Complex expansion, which was approved by the FAA a few months later. Once this airspace is charted and operational, Ellsworth Air Force Base will save up to $23 million a year by being able to train closer to home. In addition, other aircraft from around the Nation can come to South Dakota to utilize this training space, improving overall readiness. The expanded Powder River Training Complex is a national treasure.

I want to thank Colonel Kennedy for his commitment to this project and for his service to our Nation. He really is a shining example of the dedication and leadership that makes America's Air Force the greatest in the world.●

RECOGNIZING INNOGENOMICS TECHNOLOGIES

● Mr. VITTER. Mr. President, small businesses often have the unique ability to pinpoint serious problems in their communities while working with local agencies and other small businesses to get things done. Sometimes these small businesses provide groundbreaking, innovative technological solutions to problems that have gone unsolved for decades. As we close out National Small Business Week, I am proud to recognize InnoGenomics Technologies of New Orleans, LA. as a Small Business of the Day for National Small Business Week.

In the wake of Hurricane Katrina's devastation, Dr. Sudhir Sinha, president and CEO of InnoGenomics Technologies, had the idea to develop a new DNA marker system to aid in identifying victims of natural disasters. Developed with the support of National Science Foundation Small Business Innovation Research, SBIR, grants, InnoGenomics Technologies' patented technology gives forensic scientists the ability to test the most challenging DNA submissions to solve crimes and save lives. Additionally, the InnoGenomics Technologies team is currently developing a new method to detect and monitor cancer—a liquid biopsy that can be conducted through a minimally invasive blood test. Combined, these two groundbreaking endeavors are advancing and revolutionizing healthcare and forensic investigations.

Congratulations again to InnoGenomics Technologies for being selected as a Small Business of the Day for National Small Business Week.

Thank you for your continued commitment to innovating DNA technologies to solve crimes and save lives right in the heart of Louisiana.●

RECOGNIZING HARING CATFISH

● Mr. VITTER. Mr. President, small businesses often set a high standard for quality and service across the United States. Commitment to reaching these high thresholds is most important in our agriculture and food industries. One small business that has continually held itself to the highest bar for quality and service is Haring Catfish, located in Wisner, LA—the Small Business of the Day for National Small Business Week.

Louisiana is known for its fresh, high-quality, and delicious seafood. Opened in the early 1960s by Walter Carl ''Pete'' Haring, Sr., Haring Catfish has since grown to processing over 300,000 pounds of catfish per week. Haring Catfish's commitment to the highest quality catfish through healthy, high protein diets has elevated them to be one of the most-recognized catfish farms in the United States. Haring Catfish has received numerous distinguished awards, including the Louisiana Catfish Farmer of the Year Award, Catfish Farmers of America Award of Excellence, and the Small Business Person of the Year Award by the U.S. Small Business Administration.

Congratulations again to Haring Catfish for being selected as a Small Business of the Day for National Small Business Week. Thank you for your continued commitment to providing the high-quality and delicious catfish in Louisiana.●

RECOGNIZING RAISING CANE'S CHICKEN FINGERS

● Mr. VITTER. Mr. President, just as important as it is to recognize our small businesses, it is often important to also recognize our small business success stories—especially those that make a substantial impact in their industries and in their communities. As a part of National Small Business Week, I am proud to recognize the Louisiana small business success story of Raising Cane's Chicken Fingers.

In the early 1990s, Todd Graves was inspired to open a chicken finger restaurant. After the bank turned down the fresh-out-of-college graduate for a loan, Graves spent the next few years working various jobs to earn and save the money necessary to open Raising Cane's in Baton Rouge, LA. in 1996. In the years since, Raising Cane's Chicken Fingers has opened over 150 locations across the United States and has gained a fandom following. Raising Cane's Chicken Fingers prides itself on their commitment to the absolute highest quality products and services—a model that has earned them numerous ''Best Places to Work'' awards from regions across the country. Never forgetting its small business roots, Raising Cane's Chicken Fingers stays true to Louisiana and regularly gives back to the communities their establishments serve. Todd Graves and the entire Raising Cane's Chicken Fingers crew are an inspiring example of the hard work, courage, and dedication that go into running American small businesses.

Congratulations again to Raising Cane's Chicken Fingers for being recognized as a small business success story during the 2015 National Small Business Week. Your commitment to giving back to your local communities and remembering your small business beginning is recognized and greatly appreciated.●

TRIBUTE TO COLONEL WILLIAM P. DAVIS

● Mr. VITTER. Mr. President, today I honor the career of one of Louisiana's heroes and most accomplished residents, retired Marine Corps Col. William P. Davis. Colonel Davis was born at Camp Pendleton, CA, the son of a career marine, and spent his youth following his father's military postings. He is a combat veteran of Operation Desert Storm, and subsequently assigned as the supply, fiscal, and contracting officer for Landing Force Training Command Atlantic. In 1997, he was assigned to his first tour at the Marines Forces Reserve in New Orleans, LA. During that period, he was a parent volunteer for the Young Marines chapter in Slidell, LA, where he organized training events and tours to units and bases. In addition, he provided classes for the annual regimental encampment as well as at recruit training events.

Colonel Davis was operations officer for Joint Task Force Civil Support, a military organization under the U.S. Northern Command at Fort Monroe, VA, where he led a team of technical experts in planning post-incident recovery from chemical, biological, radiological or nuclear incidents. He supported planning for the 2006 Winter Olympics, 2006 Southeast Asian Games, and other exercises across the world. During Hurricane Katrina's aftermath in 2005, he worked with Federal, military, State, and local authorities in support of response operations.

Colonel Davis returned to New Orleans in 2006, becoming assistant chief of Staff at Marine Forces Reserve. He led a staff of 80 people charged with overseeing construction, maintenance, and repairs of 187 reserve sites nationwide, including the construction of the 29-acre Marine Corps Support Facility in New Orleans. From 2011 until recently, Colonel Davis was the inaugural commandant of the New Orleans Military and Maritime Academy, a charter high school where all students are cadets of the Marine Corps Junior Reserve Officers Training Corps Program and are focused on college preparation with an emphasis on science, technology, engineering, and math. In his job as commandant, Colonel Davis has helped positively shape the lives of several hundred cadets from the region. After 4 years of operation, the academy has test results and student performance improvement ranked well above averages by more established schools. Beginning in 2016, Colonel Davis will leave Louisiana to become the next national executive director and CEO of the Young Marines.

Colonel Davis is an accomplished executive whose commitment to young people has always been fundamental during his career. He is highly regarded for strategic thinking, sound financial management, marketing expertise, and exceptional project management skills. He is a distinguished leader who will bring military expertise and business experience to the Young Marines.

I am pleased to join with the Senate in honoring the career of retired Col. William P. Davis. We thank him for his service to our country and congratulate him as he begins the next chapter of his career.●

MESSAGES FROM THE HOUSE

At 9:49 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 178. An act to provide justice for the victims of trafficking.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2250. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2016, and for other purposes.

H.R. 2353. An act to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund, and for other purposes.

At 11:06 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 874. An act to amend the Department of Energy High-End Computing Revitalization Act of 2004 to improve the high-end computing research and development program of the Department of Energy, and for other purposes.

H.R. 1119. An act to improve the efficiency of Federal research and development, and for other purposes.

H.R. 1156. An act to authorize the establishment or designation of a working group under the National Science and Technology Council to identify and coordinate international science and technology cooperation opportunities.

H.R. 1158. An act to improve management of the National Laboratories, enhance technology commercialization, facilitate public-private partnerships, and for other purposes.

H.R. 1162. An act to make technical changes to provisions authorizing prize competitions under the Stevenson-Wydler Technology Innovation Act of 1980.

H.R. 1561. An act to improve the National Oceanic and Atmospheric Administration's weather research through a focused program of investment on affordable and attainable advances in observational, computing, and modeling capabilities to support substantial improvement in weather forecasting and prediction of high impact weather events, to expand commercial opportunities for the provision of weather data, and for other purposes.

At 10:22 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 47. Concurrent resolution to correct the enrollment of S. 178.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 874. An act to amend the Department of Energy High-End Computing Revitalization Act of 2004 to improve the high-end computing research and development program of the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

H. R. 1119. An act to improve the efficiency of Federal research and development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1156. An act to authorize the establishment or designation of a working group under the National Science and Technology Council to identify and coordinate international science and technology cooperation opportunities; to the Committee on Foreign Relations.

H.R. 1158. An act to improve management of the National Laboratories, enhance technology commercialization, facilitate public-private partnerships, and for other purposes; to the Committee on Energy and Natural Resources

H.R. 1162. An act to make technical changes to provisions authorizing prize competitions under the Stevenson-Wydler Technology Innovation Act of 1980; to the Committee on Commerce, Science, and Transportation.

H.R. 1561. An act to improve the National Oceanic and Atmospheric Administration's weather research through a focused program of investment on affordable and attainable advances in observational, computing, and modeling capabilities to support substantial improvement in weather forecasting and prediction of high impact weather events, to expand commercial opportunities for the provision of weather data, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2250. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2016, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2353. An act to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. THUNE for the Committee on Commerce, Science, and Transportation.

*Mario Cordero, of California, to be a Federal Maritime Commissioner for the term expiring June 30, 2019.

*Daniel R. Elliott III, of Ohio, to be a Member of the Surface Transportation Board for a term expiring December 31, 2018.

*Coast Guard nomination of Rear Adm. Sandra L. Stosz, to be Vice Admiral.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GARDNER (for himself and Mr. BENNET):

S. 1390. A bill to help provide relief to State education budgets during a recovering economy, to help fulfill the Federal mandate to provide higher educational opportunities for Native American Indians, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. UDALL (for himself and Mr. HEINRICH):

S. 1391. A bill to increase research, education, and treatment for cerebral cavernous malformations; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARKEY:

S. 1392. A bill to require certain practitioners authorized to prescribe controlled substances to complete continuing education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THUNE (for himself, Mrs. CAPITO, Mr. COTTON, Mrs. FISCHER, Mr. FLAKE, Mr. INHOFE, Mr. LEE, and Mr. ROBERTS):

S. 1393. A bill to require the Administrator of the Environmental Protection Agency to include in each regulatory impact analysis for a proposed or final rule an analysis that does not include any other proposed or unimplemented rule; to the Committee on Environment and Public Works.

By Mr. MERKLEY (for himself and Mr. WYDEN):

S. 1394. A bill to amend the Federal Water Pollution Control Act to establish within the Environmental Protection Agency a Columbia River Basin Restoration Program; to the Committee on Environment and Public Works.

By Ms. MURKOWSKI:

S. 1395. A bill to reinstate certain mining claims in the State of Alaska; to the Committee on Energy and Natural Resources.

By Mr. THUNE (for himself and Ms. STABENOW):

S. 1396. A bill to establish a demonstration program requiring the utilization of Value-Based Insurance Design in order to demonstrate that reducing the copayments or coinsurance charged to Medicare beneficiaries for selected high-value prescription medications and clinical services can increase their utilization and ultimately improve clinical outcomes, enhance beneficiary satisfaction, and lower health care expenditures; to the Committee on Finance.

By Mr. CORNYN:

S. 1397. A bill to amend the Internal Revenue Code of 1986 to require that ITIN applicants submit their application in person at taxpayer assistance centers, and for other purposes; to the Committee on Finance.

By Mr. ALEXANDER (for himself, Mr. COONS, Ms. MURKOWSKI, Ms. CANTWELL, Mr. GARDNER, Mrs. FEINSTEIN, and Mr. HEINRICH):

S. 1398. A bill to extend, improve, and consolidate energy research and development programs, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENNET:

S. 1399. A bill to amend the Internal Revenue Code of 1986 to permanently extend and increase expensing limitations, and for other purposes; to the Committee on Finance.

By Mr. DURBIN:

S. 1400. A bill to amend the Small Business Act to direct the task force of the Office of Veterans Business Development to provide access to and manage the distribution of excess or surplus property to veteran-owned small businesses; to the Committee on Small Business and Entrepreneurship.

By Mr. TILLIS (for himself and Mr. BURR):

S. 1401. A bill to provide for the annual designation of cities in the United States as an ''American World War II City''; to the Committee on Armed Services.

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 1402. A bill to allow acceleration certificates awarded under the Patents for Humanity Program to be transferable; to the Committee on the Judiciary.

By Mr. RUBIO:

S. 1403. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to promote sustainable conservation and management for the Gulf of Mexico and South Atlantic fisheries and the communities that rely on them, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PORTMAN (for himself, Mr. MCCAIN, Mr. ISAKSON, and Mr. CORNYN):

S. 1404. A bill to free States to spend gas taxes on their transportation priorities; to the Committee on Environment and Public Works.

By Mr. FRANKEN:

S. 1405. A bill to require a coordinated response to coal fuel supply emergencies that could impact electric power system adequacy or reliability; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 1406. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to pharmacy compounding; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELLER (for himself, Mr. RISCH, Mr. HEINRICH, and Mr. TESTER):

S. 1407. A bill to promote the development of renewable energy on public land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PETERS (for himself, Mr. ALEXANDER, and Ms. STABENOW):

S. 1408. A bill to provide for a program of research, development, demonstration, and commercial application in vehicle technologies at the Department of Energy; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROUNDS (for himself, Mr. MANCHIN, Mr. THUNE, Mr. INHOFE, Mrs. CAPITO, Mr. RISCH, Mr. HOEVEN, and Ms. COLLINS):

S. Con. Res. 17. A concurrent resolution establishing a joint select committee to address regulatory reform; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 85

At the request of Mr. KING, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 85, a bill to amend the Higher Education Act of 1965 to establish a simplified income-driven repayment plan, and for other purposes.

S. 127

At the request of Mrs. SHAHEEN, the name of the Senator from South Dakota (Mr. ROUNDS) was added as a cosponsor of S. 127, a bill to prohibit Federal funding for motorcycle checkpoints, and for other purposes.

S. 149

At the request of Mr. HATCH, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 149, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on medical devices.

S. 356

At the request of Mr. LEE, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 356, a bill to improve the provisions relating to the privacy of electronic communications.

S. 389

At the request of Ms. HIRONO, the names of the Senator from California (Mrs. BOXER) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 389, a bill to amend section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 to require that annual State report cards reflect the same race groups as the decennial census of population.

S. 491

At the request of Ms. KLOBUCHAR, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 491, a bill to lift the trade embargo on Cuba.

S. 524

At the request of Mr. WHITEHOUSE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 524, a bill to authorize the Attorney General to award grants to address the national epidemics of prescription opioid abuse and heroin use.

S. 682

At the request of Mr. DONNELLY, the name of the Senator from South Carolina (Mr. SCOTT) was added as a cosponsor of S. 682, a bill to amend the Truth in Lending Act to modify the definitions of a mortgage originator and a high-cost mortgage.

S. 711

At the request of Ms. AYOTTE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 711, a bill to amend section 520J of the Public Service Health Act to authorize grants for mental health first aid training programs.

S. 713

At the request of Mrs. BOXER, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 713, a bill to prevent international violence against women, and for other purposes.

S. 746

At the request of Mr. WHITEHOUSE, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 746, a bill to provide for the establishment of a Commission to Accelerate the End of Breast Cancer.

At the request of Mr. GRASSLEY, the name of the Senator from Michigan (Mr. PETERS) was added as a cosponsor of S. 746, supra.

S. 796

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 796, a bill to incentivize State support for postsecondary education and to promote increased access and affordability for higher education for students, including Dreamer students.

S. 802

At the request of Mr. RUBIO, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 802, a bill to authorize the Secretary of State and the Administrator of the United States Agency for International Development to provide assistance to support the rights of women and girls in developing countries, and for other purposes.

S. 804

At the request of Mrs. SHAHEEN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 804, a bill to amend title XVIII of the Social Security Act to specify coverage of continuous glucose monitoring devices, and for other purposes.

S. 862

At the request of Ms. MIKULSKI, the name of the Senator from Hawaii (Mr. SCHATZ) was added as a cosponsor of S. 862, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 950

At the request of Mr. CASEY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 950, a bill to amend the Internal Revenue Code of 1986 to provide for a refundable adoption tax credit.

S. 974

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 974, a bill to amend the Fair Labor Standards Act of 1938 to prohibit employment of children in tobacco-related agriculture by deeming such employment as oppressive child labor.

S. 1004

At the request of Mr. KIRK, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1004, a bill to amend title 36, United States Code, to encourage the nationwide observance of two minutes of silence each Veterans Day.

S. 1020

At the request of Mr. VITTER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1020, a bill to amend title XVIII of the Social Security Act to ensure the continued access of Medicare beneficiaries to diagnostic imaging services, and for other purposes.

S. 1040

At the request of Mr. HELLER, the name of the Senator from Montana (Mr. DAINES) was added as a cosponsor of S. 1040, a bill to direct the Consumer Product Safety Commission and the National Academy of Sciences to study the vehicle handling requirements proposed by the Commission for recreational off-highway vehicles and to prohibit the adoption of any such requirements until the completion of the study, and for other purposes.

S. 1085

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin (Ms. BALDWIN) was added as a cosponsor of S. 1085, a bill to expand eligibility for the program of comprehensive assistance for family caregivers of the Department of Veterans Affairs, to expand benefits available to participants under such program, to enhance special compensation for members of the uniformed services who require assistance in everyday life, and for other purposes.

S. 1122

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1122, a bill to provide that chapter 1 of title 9 of the United States Code, relating to the enforcement of arbitration agreements, shall not apply to enrollment agreements made between students and certain institutions of higher education, and to prohibit limitations on the ability of students to pursue claims against certain institutions of higher education.

S. 1123

At the request of Mr. LEE, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1123, a bill to reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes.

S. 1126

At the request of Mr. COONS, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 1126, a bill to modify and extend the National Guard State Partnership Program.

S. 1130

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1130, a bill to amend title 10, United States Code, to improve procedures for legal justice for members of the Armed Forces, and for other purposes.

S. 1176

At the request of Mr. UDALL, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1176, a bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, and for other purposes.

S. 1214

At the request of Mr. MENENDEZ, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1214, a bill to prevent human health threats posed by the consumption of equines raised in the United States.

S. 1239

At the request of Mr. DONNELLY, the name of the Senator from North Dakota (Mr. HOEVEN) was added as a cosponsor of S. 1239, a bill to amend the Clean Air Act with respect to the ethanol waiver for the Reid vapor pressure limitations under that Act.

S. 1300

At the request of Mrs. FEINSTEIN, the names of the Senator from Ohio (Mr. PORTMAN), the Senator from Wyoming (Mr. ENZI), the Senator from Texas (Mr. CRUZ) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1300, a bill to amend the section 221 of the Immigration and Nationality Act to provide relief for adoptive families from immigrant visa feeds in certain situations.

S. 1312

At the request of Ms. MURKOWSKI, the name of the Senator from South Carolina (Mr. SCOTT) was added as a cosponsor of S. 1312, a bill to modernize Federal policies regarding the supply and distribution of energy in the United States, and for other purposes.

S. 1334

At the request of Ms. MURKOWSKI, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1334, a bill to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention, and for other purposes.

S. 1345

At the request of Mrs. SHAHEEN, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 1345, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by authorizing certified diabetes educators to provide diabetes self-management training services, including as part of telehealth services, under part B of the Medicare program.

S. 1377

At the request of Mr. LEAHY, the name of the Senator from New Mexico (Mr. HEINRICH) was added as a cosponsor of S. 1377, a bill to amend title 18, United States Code, to clarify and expand Federal criminal jurisdiction over Federal contractors and employees outside the United States, and for other purposes.

S. RES. 143

At the request of Mr. SCHATZ, the names of the Senator from California (Mrs. BOXER), the Senator from Minnesota (Mr. FRANKEN) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. Res. 143, a resolution supporting efforts to ensure that students have access to debt-free higher education.

S. RES. 148

At the request of Mr. KIRK, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. Res. 148, a resolution condemning the Government of Iran's state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights.

AMENDMENT NO. 1227

At the request of Mrs. SHAHEEN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of amendment No. 1227 proposed to H.R. 1314, a bill to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.

AMENDMENT NO. 1299

At the request of Mr. PORTMAN, the names of the Senator from Vermont (Mr. SANDERS), the Senator from New Mexico (Mr. HEINRICH), the Senator from Connecticut (Mr. MURPHY), the Senator from New Mexico (Mr. UDALL), the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of amendment No. 1299 proposed to H.R. 1314, a bill to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.

AMENDMENT NO. 1369

At the request of Mr. MERKLEY, the names of the Senator from Hawaii (Mr. SCHATZ), the Senator from Wisconsin (Ms. BALDWIN), the Senator from Ohio (Mr. BROWN) and the Senator from Massachusetts (Ms. WARREN) were added as cosponsors of amendment No. 1369 intended to be proposed to H.R. 1314, a bill to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.

AMENDMENT NO. 1370

At the request of Mr. MERKLEY, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of amendment No. 1370 intended to be proposed to H.R. 1314, a bill to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.

AMENDMENT NO. 1390

At the request of Mr. FRANKEN, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of amendment No. 1390 intended to be proposed to H.R. 1314, a bill to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.

AMENDMENT NO. 1411

At the request of Mr. HATCH, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Delaware (Mr. CARPER), the Senator from Virginia (Mr. WARNER), the Senator from Virginia (Mr. KAINE), the Senator from Colorado (Mr. BENNET), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Texas (Mr. CORNYN), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Tennessee (Mr. CORKER), the Senator from Nevada (Mr. HELLER) and the Senator from Indiana (Mr. COATS) were added as cosponsors of amendment No. 1411 proposed to H.R. 1314, a bill to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MURKOWSKI:

S. 1395. A bill to reinstate certain mining claims in the State of Alaska; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I rise today to reintroduce legislation in a dramatically different form to reinstate two small miner's claims, which have been taken from them because of an inequitable federal administrative process.

Under revisions to the Federal Mining Law of 1872, 30 U.S.C. 28(f) holders of unpatented mineral claims must pay a claim maintenance fee originally set at $100 per claim by a deadline, set by regulation, of September 1 each year. Since 2004 that fee has risen to $140 per claim. But Congress also provided a claim maintenance fee waiver for ''small'' miners, those who hold 10 or fewer claims, so that they do not have to submit the fee, but that they must file to renew their claims and submit an affidavit of annual labor, work conducted on the claim, each year, certifying that they had performed more

than $100 of work on the claim in the preceding year, 30 U.S.C. 28f(d)(1). The waiver provision further states: ''If a small miner waiver application is determined to be defective for any reason, the claimant shall have a period of 60 days after receipt of written notification of the defect or defects by the Bureau of Land Management to: A) cure such defect or defects or (B) pay the . . . claim maintenance fee(s) due for such a period.''

Since past revisions of the law, there have been a series of incidents where miners have argued that they submitted their applications and affidavits of annual labor in a timely manner, but due to clerical error by U.S. Bureau of Land Management staff, mailing delays or for unexplained reasons, the applications or documents were not recorded as having been received in a timely fashion. In that case BLM has terminated the claims, deeming them null and void. While mining claim holders have argued that the law provides them time to cure claim defects, BLM has argued that the cure only applies when applications or fees have been received in a timely manner. Thus, there is no administrative remedy for miners who believe that clerical errors by BLM or mail issues resulted in loss or the late recording of claim extension applications and paperwork.

There have been a number of cases where Congress has been asked to override BLM determinations and reinstate mining claims simply because of the disputes over whether the claims had been filed in a timely manner. Congress in 2003 reinstated such claims in a previous Alaska case. Claims in two other incidents were reinstated following a U.S. District Court case in the 10th Circuit first in 2009 in the case of Miller v. United States and in a second Alaska case in 2013. Legislation to correct the provision to prevent this problem actually was approved by the Senate in 2007, but did not ultimately become law.

In the past three Congresses I have introduced legislation intended to short circuit continued litigation and pleas for claim reinstatement by clarifying the intent of Congress that miners do have to be informed that their claims are in jeopardy of being voided and given 60 days of notice to cure defects, including giving them time to submit their applications and to submit affidavits of annual labor, should their submittals not be received and processed by BLM officials on time. If all defects are not cured within 60 days—the obvious intent of Congress in passing the original act—then claims should be subject to voidance. But this administration has opposed the legislation arguing that it would be too expensive to notify all small miners who fail to file their small miner waiver documents on time and giving them time to solve the defect prior to the loss of their claims. It has even been suggested that giving small miners simple due process would just encourage miners to ignore the deadline for filing of their fee waivers.

I clearly find the cost argument unpersuasive. Many Federal departments and agencies, the Federal Communication Commission, as one example, routinely sends out notices on permit and license applications. The FCC sends out hundreds of thousands of such notices to Americans who have small radio licenses expiring yearly, warning them that they need to file applications for license renewal. The Bureau of Land Management certainly should be able to afford a few hundred stamps to perform a similar service. Given the value of claims placed at risk and the bother, inconvenience and fear of loss of claims, it is highly unlikely that miners would avoid filing their waiver paperwork on time just because a notification process was clearly in place before claims could be terminated.

But after facing the clear opposition of this administration over 6 years to resolving this inequity, today I simply file legislation to remedy the injustices for two of my constituents who have lost their rights, in one case to nine mineral claims on the Kenai Peninsula, near Hope, Alaska, and in the second case to a single placer claim in the Fortymile District of northeast Alaska. The transition language proposed will reinstate claims for Mr. John Trautner, who has lost title to claims that he had held from 1982 to 2004. Mr. Trautner suffered this loss even though he had a consistent record of having paid the annual labor assessment fee for the previous 22 years. The local BLM office did have a time-date-stamped record that the maintenance fee waiver certification form had been filed weeks before the deadline, but just not a record that the affidavit of annual labor had arrived when he dropped it at the office in Anchorage at the same time.

In the second case, it will reinstate a claim held by Mr. and Mrs. Vernon Thurneau, now of Wasilla, who lost their claim after mining it continuously for 38 years in 2009, simply because of a holiday season error. In this case the Thurneau's paid their fees on time, and turned in their proof of labor affidavit to the Fairbanks Recorders Office in December before the deadline. They received a time and date stamp that they produced the information in a timely manner. But because of the Christmas holidays they simply forgot to turn/mail in the form to the BLM Anchorage office until after Jan. 1, missing the BLM's required Dec. 31 deadline. Because of a holiday delay, they lost their claims and 38 years of work.

This legislation, supported in the past by the Alaska Miners Association, will simply reinstate the two sets of claims, claims that have been held by the government over the past decade. In response to complaints by the Department of the Interior that past versions of my legislation improperly would have resulted in the patenting of the claims by the granting of a first half final certificate in the Trautner case, I have modified this bill simply to reinstate the claims, but not to take steps to confirm patents. By this bill Mr. Trautner will have to wait like many other miners for Congress to reconsider the merits of the moratorium on patent issuance first imposed on the Mining Law of 1872 by Congress in 1995.

It is simple justice that Mr. Trautner and the Thurneau family receive their claims back, since Congress clearly thought it was giving miners a guaranteed opportunity to remedy claim defects when it created the small miner waiver provisions in 1993. Return of the claims will cost the government nothing and likely will result in added federal revenues, hopefully preventing this bill from facing any procedural issues. I hope that justice will finally prevail in these cases this Congress, even though I regret that I see no means to fix the larger inequity in the interpretation of the small miner waiver statute for the foreseeable future.

By Mr. CORNYN:

S. 1397. A bill to amend the Internal Revenue Code of 1986 to require that ITIN applicants submit their application in person at taxpayer assistance centers, and for other purposes; to the Committee on Finance.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1397

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 ''ITIN Reform Act of 2015''.

SEC. 2. REQUIREMENTS FOR THE ISSUANCE OF ITINS.

(a) IN GENERAL.—Section 6109 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(i) SPECIAL RULES RELATING TO THE ISSUANCE OF ITINS.—

''(1) IN GENERAL.—The Secretary may issue an individual taxpayer identification number to an individual only if the requirements of paragraphs (2) and (3) are met.

''(2) IN-PERSON APPLICATION.—The requirements of this paragraph are met if, with respect to an application for an individual taxpayer identification number—

''(A) the applicant submits an application in person, using Form W–7 (or any successor thereof) and including the required documentation, at a taxpayer assistance center of the Internal Revenue Service, or

''(B) in the case of an applicant who resides outside of the United States, the applicant submits the application in person to an employee of the Internal Revenue Service or a designee of the Secretary at a United States diplomatic mission or consular post, together with the required documentation.

''(3) INITIAL ON-SITE VERIFICATION OF DOCUMENTATION.—The requirements of this paragraph are met if, with respect to each application, an employee of the Internal Revenue Service at the taxpayer assistance center, or

the employee or designee described in paragraph (2)(B), as the case may be, conducts an initial verification of the documentation supporting the application submitted under paragraph (2).

''(4) REQUIRED DOCUMENTATION.—For purposes of this subsection—

''(A) required documentation includes such documentation as the Secretary may require that proves the individual's identity and foreign status, and

''(B) the Secretary may only accept original documents.

''(5) EXCEPTIONS.—

''(A) MILITARY SPOUSES.—Paragraph (1) shall not apply to the spouse, or the dependents, without a social security number of a taxpayer who is a member of the Armed Forces of the United States.

''(B) TREATY BENEFITS.—Paragraph (1) shall not apply to a nonresident alien applying for an individual taxpayer identification number for the purpose of claiming tax treaty benefits.

''(6) TERM.—

''(A) IN GENERAL.—An individual taxpayer identification number issued after the date of the enactment of this subsection shall be valid only for the 5-year period which includes the taxable year of the individual for which such number is issued and the 4 succeeding taxable years.

''(B) RENEWAL OF ITIN.—Such number shall be valid for an additional 5-year period only if it is renewed through an application which satisfies the requirements under paragraphs (2) and (3).

''(C) SPECIAL RULE FOR EXISTING ITINS.—In the case of an individual with an individual taxpayer identification number issued on or before the date of the enactment of this subsection, such number shall not be valid after the earlier of—

''(i) the end of the 3-year period beginning on the date of the enactment of this subsection, or

''(ii) the first taxable year beginning after—

''(I) the date of the enactment of this subsection, and

''(II) any taxable year for which the individual (or, if a dependent, on which the individual is included) did not make a return.''.

(b) INTEREST.—Section 6611 of the Internal Revenue Code of 1986 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) SPECIAL RULE RELATING TO ITINS.—Notwithstanding any other provision of this section, no interest shall be allowed or paid to or on behalf of an individual with respect to any overpayment until 45 days after an individual taxpayer identification number is issued to the individual.''.

(c) AUDIT BY TIGTA.—Not later than two years after the date of the enactment of this Act, and every 2 years thereafter, the Treasury Inspector General for Tax Administration shall conduct an audit of the program of the Internal Revenue Service for the issuance of individual taxpayer identification numbers pursuant to section 6109(i) of the Internal Revenue Code of 1986. The report required by this subsection shall be submitted to the Congress.

(d) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests for individual taxpayer identification numbers made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to returns due, claims filed, and refunds paid after the date of the enactment of this Act.

By Mr. DURBIN:

S. 1400. A bill to amend the Small Business Act to direct the task force of the Office of Veterans Business Development to provide access to and manage the distribution of excess or surplus property to veteran-owned small businesses; to the Committee on Small Business and Entrepreneurship.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1400

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 ''Veterans Small Business Enhancement Act of 2015''.

SEC. 2. ACCESS TO EXCESS OR SURPLUS PROPERTY FOR VETERAN-OWNED SMALL BUSINESSES.

Section 32(c)(3)(B) of the Small Business Act (15 U.S.C. 657b(c)(3)(B)) is amended—

(1) in clause (v), by striking ''; and'' and inserting a semicolon;

(2) in clause (vi), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new clause:

''(vii) providing access to and managing the distribution of excess or surplus property owned by the United States to small business concerns owned and controlled by veterans, pursuant to a memorandum of understanding between the task force and the head of the applicable state agency (as defined in section 549 of title 40, United States Code).''.

By Mr. TILLIS (for himself and Mr. BURR):

S. 1401. A bill to provide for the annual designation of cities in the United States as an ''American World War II City''; to the Committee on Armed Services.

Mr. TILLIS. Mr. President, I am pleased to introduce legislation to direct the Secretary of Veterans Affairs to designate one city each year as a World War II city, beginning with Wilmington, NC, as America's first World War II City.

The names of the 10,000 Tarheels, who paid the ultimate price in World War II are memorialized on the bulkhead of the battleship USS North Carolina in downtown Wilmington.

During World War II, the USS North Carolina, known affectionately throughout the Navy as the ''Showboat'', ''participated in every major naval offensive in the Pacific area of operations and earned 15 battle stars. She steamed over 300,000 miles. Although Japanese radio claimed six times that North Carolina had been sunk, she survived.

After serving as a training vessel for midshipmen, North Carolina was decommissioned June 27, 1947 and placed in the Inactive Reserve Fleet in Bayonne, New Jersey, for the next 14 years. In 1958 the announcement of her impending scrapping led to a statewide campaign by citizens of North Carolina to save the ship and bring her back to her home state. The Save Our Ship, SOS, campaign was successful and the battleship arrived in her current berth on October 2, 1961. She was dedicated on April 29, 1962, as the State's memorial to its World War II veterans

At home, North Carolina's coast was a war zone. On April 13–14, 1942, the first U-boat, German U–85, was sunk off the North Carolina Coast. Mr. President, 397 ships were sunk or damaged and nearly 5,000 people were killed within sight of our shores. For 6 months at the beginning of America's war, 65 German U-boats hunted Allied merchant vessels practically unopposed. The greatest concentration of these attacks came off North Carolina.

During World War II, Wilmington was the home of the North Carolina Shipbuilding Company. The shipyard was created as part of the U.S. Government's Emergency Shipbuilding Program. Workers built 243 ships in Wilmington during the five years the company operated.

The city was the site of three prisoner-of-war, POW, camps from February 1944 through April 1946. At their peak, the camps held 550 German prisoners. The first camp was located on the corner of Shipyard Boulevard and Carolina Beach Road; the old Confederate post Fort Fisher housed German prisoners and also served as a training site for the Coastal Artillery and antiaircraft units. A smaller contingent of prisoners was assigned to a smaller site, working in the officers' mess and doing grounds keeping at Bluethenthal Army Air Field, which is now Wilmington International Airport. Bluethenthal Army Air Field was used by the United States Army Air Forces' Third Air Force for antisubmarine patrols and training.

I want to thank my colleague Senator BURR for bringing this idea to establish a process to recognize Wilmington and other American cities for their efforts during the war years, to the Senate. But I also wish to single out Wilbur Jones, a Wilmington native and military historian who has poured so much of his time and soul into ensuring that the people of southeastern North Carolina never forget the contributions of our state to victory in the Atlantic and the Pacific.

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 1402. A bill to allow acceleration certificates awarded under the Patents for Humanity Program to be transferable; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, the American intellectual property system is rightly held as the global standard for promoting innovation and driving economic growth. This is particularly true of our patent system. The fundamental truth that our Founders recognized more than 200 years ago, that limited exclusive rights for inventors incentivize research and development, continues to benefit consumers and the American economy at large.

A healthy patent system should do more than drive economic development; it should incentivize research and discoveries that advance humanitarian needs. I have worked to promote policies that encourage intellectual property holders to apply their work to address global humanitarian challenges. Today, I continue that effort by joining with Senator GRASSLEY to introduce the bipartisan Patents for Humanity Program Improvement Act.

This bipartisan legislation strengthens a program created by the United States Patent and Trademark Office, PTO, in 2012. The PTO's Patents for Humanity Program provides rewards to selected patent holders who use their invention to address a humanitarian issue that significantly affects the public health or quality of life of an impoverished population. Those who receive the award are given a certificate to accelerate certain PTO processes, as described in the program rules.

The innovations that have been recognized by this program help underserved people throughout the world. Award winners have worked to improve the treatment and diagnosis of devastating diseases, improve nutrition and the environment, and combat the spread of dangerous counterfeit drugs. These are innovations that will make a real difference in the lives of people who are not always the beneficiaries of cutting-edge technology.

Following a Judiciary Committee hearing in 2012, I asked then-PTO Director Kappos whether the Patents for Humanity program would be more effective, and more attractive to innovators, if the acceleration certificates awarded were transferable to a third party. He responded that it would, and that it would be particularly beneficial to small businesses that win the award. Since that time, other small start-ups and global health groups have emphasized that making the certificates transferable would improve their usability and increase the incentives of the Patents for Humanity Award. The Patents for Humanity Program Improvement Act makes this enhancement to the program. It is a straightforward, cost-neutral bill that will strengthen this award and encourage innovations to be used for humanitarian goods.

When Congress can establish policies that provide business incentives for humanitarian endeavors, it should not hesitate to act. I urge the Senate to work swiftly to pass this legislation.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 17—ESTABLISHING A JOINT SELECT COMMITTEE TO ADDRESS REGULATORY REFORM

Mr. ROUNDS (for himself, Mr. MANCHIN, Mr. THUNE, Mr. INHOFE, Mrs. CAPITO, Mr. RISCH, Mr. HOEVEN, and Ms. COLLINS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 17

Whereas there are more than 3,500 rules issued every year by more than 50 Federal agencies;

Whereas a rule is defined in section 551 of title 5, United States Code, as ''the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy'';

Whereas subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'') established standards for the issuance of rules using formal rulemaking and informal rulemaking procedures;

Whereas informal rulemaking, also known as ''notice and comment'' rulemaking or ''section 553'' rulemaking, is the most common type of rulemaking;

Whereas in rulemaking proceedings, formal hearings must be held and interested parties must be given the chance to comment on the proposed rule or regulation, and once adopted, the rule or regulation is required to be published in the Federal Register;

Whereas, according to a 2005 study commissioned by the Small Business Administration, the cost of all rules in effect was approximately $1,100,000,000,000 per year, more than the people of the United States paid in Federal income taxes in 2009;

Whereas, according to the 2014 Ten Thousand Commandments report by the Competitive Enterprise Institute, the top 6 Federal rulemaking agencies (which, in 2013, were the Departments of the Treasury, Commerce, Interior, Health and Human Services, and Transportation and the Environmental Protection Agency) account for 49.3 percent of all Federal rules;

Whereas, according to the 2014 Ten Thousand Commandments report by the Competitive Enterprise Institute, small businesses pay more in per-employee regulatory costs, and firms with fewer than 20 employees pay an average of $10,585 per employee, compared to $7,755 for those with 500 or more employees;

Whereas, according to the 2014 Ten Thousand Commandments report by the Competitive Enterprise Institute, regulatory costs amount to an average of $14,974 per household, which is 23 percent of the average household income of $65,596 and 29 percent of the expenditure budget of $51,442;

Whereas, according to a 2011 study by the Weidenbaum Center at Washington University, it is estimated that the budgetary cost of administering and enforcing Federal regulations by Federal agencies for fiscal year 2012 amounted to more than $57 billion (in 2005 dollars), which represents a 10.5 percent increase in 2 years;

Whereas chapter 8 of title 5, United States Code (commonly known as the ''Congressional Review Act'') established a mechanism through which Congress could overturn Federal regulations by enacting a joint resolution of disapproval;

Whereas the Congressional Review Act requires that rules that have a $100,000,000 effect or more on the economy are submitted by agencies to both Houses of Congress and the Government Accountability Office and have a delayed effective date of not less than 60 days to pass a resolution of disapproval rejecting the rule, which must be approved by the President; and

Whereas, since the enactment of the Congressional Review Act in 1996, the procedures under the Act have been used 1 time to overturn a rule: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This resolution may be cited as the ''Regulation Sensibility Through Oversight Restoration Resolution of 2015'' or the ''RESTORE Resolution of 2015''.

SEC. 2. JOINT SELECT COMMITTEE ON REGULATORY REFORM.

There is established a joint select committee to be known as the Joint Select Committee on Regulatory Reform (hereinafter in this concurrent resolution referred to as the ''Joint Select Committee'').

SEC. 3. DUTIES OF JOINT SELECT COMMITTEE.

(a) DEFINITIONS.—In this section, the terms ''agency'' and ''rule'' have the meanings given those terms in section 551 of title 5, United States Code.

(b) DUTIES.—The Joint Select Committee shall—

(1) conduct a systematic review of the process by which rules are promulgated by agencies;

(2) hold hearings on the effects of and how to reduce regulatory overreach in all sectors of the economy;

(3) conduct a review of the Code of Federal Regulations to identify rules and sets of rules that should be repealed; and

(4) submit to the Senate and the House of Representatives—

(A) recommendations for legislation—

(i) to create a process under which an agency, before promulgating a rule, shall—

(I) seek advice from Congress;

(II) publish the proposed rule;

(III) hold a public comment period on the proposed rule;

(IV) seek advice from Congress based on the public comments; and

(V) hold issuance of the rule until Congress can review the rule for a period of not more than 1 year; and

(ii) to create a process to appropriately sunset as many rules as possible;

(B) recommendations for ways to reduce the financial burden placed on the various sectors of the economy in order to comply with rules;

(C) an analysis of the feasibility of the creation of a permanent Joint Committee on Rules Review in accordance with subsection (c);

(D) an analysis of the feasibility of requiring each agency to submit each proposed rule of the agency to the appropriate committees of Congress for review in a similar manner as set forth for a permanent Joint Committee on Rules Review under subsection (c); and

(E) a list of rules and sets of rules that the Joint Select Committee recommends should be repealed.

(c) ANALYSIS OF PERMANENT JOINT COMMITTEE ON RULES REVIEW.—The Joint Select Committee shall analyze the feasibility of the creation of a permanent Joint Committee on Rules Review. The Joint Committee on Rules Review would—

(1) review each proposed rule that an agency determines is likely to have an annual effect on the economy of $50,000,000 or more before the agency promulgates the final rule;

(2) require each agency to submit to the Committee—

(A) the text of each proposed rule of the agency described in paragraph (1); and

(B) an analysis of the economic impact of the rule on the economy;

(3) require each agency to revise a proposed rule submitted under paragraph (2) if the Committee determines that the proposed rule—

(A) needs to be significantly rewritten to accomplish the intent of the agency or address the recommendations or objections of the Committee;

(B) is not a valid exercise of delegated authority from Congress;

(C) is not in proper form;

(D) is inconsistent with the intent of Congress with respect to the provision of law that the proposed rule implements; or

(E) is not a reasonable implementation of the law;

(4) delay the effective date of a proposed rule for a period of not more than 1 year beginning on the date on which the agency submits the proposed rule under paragraph (2);

(5) allow an agency to promulgate a final rule without any delay in the effective date of the rule if the agency designates the rule as an emergency rule, unless the Committee by majority vote determines that the rule is not an emergency rule; and

(6) if applicable, recommend that Congress should overturn a final rule promulgated by an agency by enacting a joint resolution of disapproval.

SEC. 4. COMPOSITION OF JOINT SELECT COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Joint Select Committee shall be composed of 30 members, of whom—

(A) 15 shall be appointed by the majority and the minority leaders of the Senate from among Members of the Senate in a manner that reflects the ratio of the number of Members of the Senate from the majority party to the number of Members of the Senate from the minority party on the date of enactment of this Act; and

(B) 15 shall be appointed by the Speaker and the minority leader of the House of Representatives among Members of the House of Representatives in a manner that reflects the ratio of the number of members of the House of Representatives from the majority party to the number of Members of the House of Representatives from the minority party on the date of enactment of this Act.

(2) DATE.—The appointments of the members of the Joint Select Committee shall be made not later than 30 days after the date of adoption of this concurrent resolution.

(b) VACANCIES.—Any vacancy in the Joint Select Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) CHAIRPERSON.—The members of the Joint Select Committee shall elect a Chairperson for the Joint Select Committee by majority vote from each of—

(A) the members of the majority party of the Senate; and

(B) the members of the majority party of the House of Representatives.

(2) VICE CHAIRPERSON.—The members of the Joint Select Committee shall elect a Vice Chairperson for the Joint Select Committee by majority vote from each of—

(A) the members of the minority party of the Senate; and

(B) the members of the minority party of the House of Representatives.

(d) QUORUM.—A majority of the members of the Joint Select Committee each from the Senate and the House of Representatives shall constitute a quorum for the purpose of conducting the business of the Joint Select Committee.

SEC. 5. RULES AND PROCEDURES.

(a) GOVERNANCE UNDER STANDING RULES OF THE SENATE.—Except as otherwise specifically provided in this resolution, the investigations and hearings conducted by the Joint Select Committee shall be governed by the Standing Rules of the Senate.

(b) ADDITIONAL RULES AND PROCEDURES.—The Joint Select Committee may adopt such additional rules or procedures if the Chairperson and Vice Chairperson agree, or if the Joint Select Committee by majority vote so decides, that such additional rules or procedures are necessary or advisable to conduct the duties of the Joint Select Committee.

SEC. 6. AUTHORITY OF JOINT SELECT COMMITTEE.

(a) IN GENERAL.—The Joint Select Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) POWERS.—The Joint Select Committee may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Joint Select Committee considers advisable; and

(2) authorize and require, by issuance of subpoena or otherwise, the attendance and testimony of witnesses and the preservation and production of books, records, correspondence, memoranda, papers, documents, tapes, and any other materials in whatever form the Joint Select Committee considers advisable.

(c) SUBPOENAS.—Subpoenas authorized by the Joint Select Committee—

(1) may be issued with the joint concurrence of the Chairperson and Vice Chairperson;

(2) shall bear the signature of the Chairperson and Vice Chairperson, or the designee of the Chairperson or Vice Chairperson; and

(3) shall be served by any person or class of persons designated by the Chairperson and Vice Chairperson for that purpose anywhere within or without the borders of the United States to the full extent provided by law.

(d) ACCESS TO INFORMATION.—The Joint Select Committee shall have, to the fullest extent permitted by law, access to any such information or materials obtained by any other department or agency of the Federal Government or by any other governmental department, agency, or body investigating the matters described in section 3(b).

(e) COOPERATION OF OTHER COMMITTEES.—In carrying out the duties of the Joint Select Committee, the Joint Select Committee may obtain the input and cooperation of any other standing committee of the Senate or the House of Representatives.

SEC. 7. REPORTS.

(a) IN GENERAL.—Not later than 90 days after the date on which the Joint Select Committee terminates, the Joint Select Committee shall submit to the Senate and the House of Representatives a report, which shall contain—

(1) the results and findings of the reviews and hearings carried out by the Joint Select Committee pursuant to this resolution; and

(2) any information required to be submitted under section 3(b)(4).

(b) INTERIM REPORTS.—The Joint Select Committee may submit to the Senate and the House of Representatives such interim reports as the Joint Select Committee considers appropriate.

SEC. 8. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—

(1) IN GENERAL.—The Joint Select Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Joint Select Committee considers necessary or appropriate.

(2) APPOINTMENT OF STAFF.—

(A) IN GENERAL.—The Joint Select Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) MAJORITY STAFF.—The majority staff shall be appointed, and may be removed, by the Chairperson and shall work under the general supervision and direction of the Chairperson.

(C) MINORITY STAFF.—The minority staff shall be appointed, and may be removed, by the Vice Chairperson and shall work under the general supervision and direction of the Vice Chairperson.

(D) NONDESIGNATED STAFF.—Nondesignated staff shall be appointed, and may be removed, jointly by the Chairperson and Vice Chairperson, and shall work under the joint general supervision and direction of the Chairperson and Vice Chairperson.

(b) COMPENSATION.—

(1) MAJORITY STAFF.—The Chairperson shall fix the compensation of all personnel of the majority staff of the Joint Select Committee.

(2) MINORITY STAFF.—The Vice Chairperson shall fix the compensation of all personnel of the minority staff of the Joint Select Committee.

(3) NONDESIGNATED STAFF.—The Chairperson and Vice Chairperson shall jointly fix the compensation of all nondesignated staff of the Joint Select Committee.

(4) PAY AND BENEFITS.—All employees of the Joint Select Committee shall be treated as employees of the Senate for purposes of disbursing pay and processing benefits.

(c) FACILITIES.—The Joint Select Committee may use, with the prior consent of the chair of any other committee of the Senate or the House of Representatives or the chair of any subcommittee of any committee of the Senate or the House of Representatives, the facilities of any other committee of the Senate or the House of Representatives, whenever the Joint Select Committee or the Chairperson and Vice Chairperson consider that such action is necessary or appropriate to enable the Joint Select Committee to carry out the responsibilities, duties, or functions of the Joint Select Committee under this resolution.

(d) DETAIL OF EMPLOYEES.—The Joint Select Committee may use on a reimbursable basis, with the prior consent of the head of the department or agency of the Federal Government concerned and the approval of the Committee on Rules and Administration of the Senate, the services of personnel of the department or agency.

(e) TEMPORARY AND INTERMITTENT SERVICES.—The Joint Select Committee may procure the temporary or intermittent services of individual consultants or organizations.

(f) ETHICS.—The Joint Select Committee shall establish ethical rules for the members and employees of the Joint Select Committee, which shall, to the extent practicable, be comparable to the ethical rules that apply to employees of the Senate.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the expenses of the Joint Select Committee, there are authorized to be appropriated $3,000,000 for fiscal year 2016, to remain available until expended.

SEC. 9. EFFECTIVE DATE; TERMINATION.

(a) EFFECTIVE DATE.—This resolution shall take effect on the date of adoption of this concurrent resolution.

(b) TERMINATION.—The Joint Select Committee shall terminate on the date that is 1 year after the appointment of the members of the Joint Select Committee.

(c) DISPOSITION OF RECORDS.—Upon termination of the Joint Select Committee, the records of the Joint Select Committee shall become the records of any committee or committees designated by the majority leader of the Senate and the Speaker of the House of Representatives, with the concurrence of the minority leader of the Senate and the House of Representatives.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1412. Mr. MANCHIN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table.

SA 1413. Mr. MANCHIN (for himself and Ms. WARREN) submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1414. Mr. MANCHIN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1415. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1416. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1417. Ms. HEITKAMP submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1418. Mr. DAINES submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1419. Mr. SULLIVAN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1420. Mr. SULLIVAN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1421. Mr. BLUMENTHAL (for himself and Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1422. Mr. HEINRICH submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1423. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 1248 submitted by Ms. CANTWELL and intended to be proposed to the amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1424. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1425. Ms. HIRONO submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1426. Ms. HIRONO submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1427. Mr. SCHATZ submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1428. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1429. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1430. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1431. Mr. TILLIS submitted an amendment intended to be proposed by him to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1432. Mr. FRANKEN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1433. Ms. BALDWIN submitted an amendment intended to be proposed to amendment SA 1312 submitted by Mr. INHOFE (for himself and Mr. COONS) to the amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1434. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1251 submitted by Mr. BROWN (for himself, Mr. PETERS, Mr. SCHUMER, Ms. STABENOW, Mr. MENENDEZ, and Mr. CASEY) to the amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

SA 1435. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1327 submitted by Ms. WARREN (for herself, Ms. HEITKAMP, Mr. MANCHIN, Mr. DURBIN, Mrs. BOXER, Mr. BROWN, Mr. CASEY, Mr. FRANKEN, Mr. BLUMENTHAL, Ms. BALDWIN, Mr. MARKEY, Mr. PETERS , Mr. WHITEHOUSE, Mr. SCHATZ, Mr. UDALL, and Mr. HEINRICH) to the amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1412. Mr. MANCHIN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

Beginning on page 45, strike line 10 and all that follows through page 49, line 20, and insert the following:

(c) EXTENSION APPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 106(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2018; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2018, and before July 1, 2021, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) an extension approval resolution is enacted under paragraph (5) before July 1, 2018.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to Congress, not later than April 1, 2018, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) OTHER REPORTS TO CONGRESS.—

(A) REPORT BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the decision of the President to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to Congress as soon as practicable, but not later than June 1, 2018, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) REPORT BY INTERNATIONAL TRADE COMMISSION.—The President shall promptly inform the United States International Trade Commission of the decision of the President to submit a report to Congress under paragraph (2). The International Trade Commission shall submit to Congress as soon as practicable, but not later than June 1, 2018, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of the enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(4) STATUS OF REPORTS.—The reports submitted to Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION APPROVAL RESOLUTION.—(A) For purposes of paragraph (1), the term ''extension approval resolution'' means a joint resolution the sole matter after the resolving clause of which is as follows: ''That Congress approves the request of the President for the extension, under section 103(c)(1)(B)(i) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 103(b) of that Act after June 30, 2018.''.

(B) Extension approval resolutions—

(i) may be introduced in either House of Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of subsections (d) and (e) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension approval resolutions.

(D) It is not in order for—

(i) the House of Representatives to consider any extension approval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules;

(ii) the Senate to consider any extension approval resolution not reported by the Committee on Finance; or

(iii) either House of Congress to consider an extension approval resolution after June 30, 2018.

SA 1413. Mr. MANCHIN (for himself and Ms. WARREN) submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

On page 78, line 22, strike ''as a whole'' and insert ''as a whole, on the economy of each State,''.

SA 1414. Mr. MANCHIN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

Beginning on page 44, strike line 10 and all that follows through page 45, line 9, and insert the following:

(3) IMPLEMENTING BILLS.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, the President shall submit to Congress under section 106(a)(1), with respect to each trade agreement entered into under this subsection, the following:

(i) A bill providing for the approval of the trade agreement.

(ii) A bill providing for the approval of the statement of administrative action, if any, proposed to implement the trade agreement.

(iii) If changes in existing laws or new statutory authority are required to implement the trade agreement, a bill containing such provisions as are strictly necessary or appropriate to implement the trade agreement, either repealing or amending existing laws or providing new statutory authority.

(B) PROHIBITION ON CONSOLIDATING BILLS.—The President may not consolidate the bills described in clauses (i), (ii), and (iii) of subparagraph (A).

(C) APPLICABILITY OF TRADE AUTHORITIES PROCEDURES.—The provisions of section 151 of the Trade Act of 1974 (in this title referred to as ''trade authorities procedures'') apply to a bill described in subparagraph (A). Such a bill shall hereafter in this title be referred to as an ''implementing bill''.

SA 1415. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—MISCELLANEOUS

SEC. 301. EXTENSION OF AUTHORITY OF EXPORT-IMPORT BANK OF THE UNITED STATES.

(a) IN GENERAL.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking ''September 30, 2014'' and inserting ''December 31, 2015''.

(b) DUAL-USE EXPORTS.—Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note) is amended by striking ''September 30, 2014'' and inserting ''December 31, 2015''.

(c) SUB-SAHARAN AFRICA ADVISORY COMMITTEE.—Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking ''September 30, 2014'' and inserting ''December 31, 2015''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of the date of the enactment of this Act or June 30, 2015.

SA 1416. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the end of section 109, add the following:

(c) OUTREACH AND INPUT FROM SMALL BUSINESSES TO TRADE PROMOTION AUTHORITY.—Section 609 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1) Not later than 30 days after the date on which the President submits the notification required under section 5(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, the Chief Counsel for Advocacy of the Small Business Administration (in this subsection referred to as the 'Chief Counsel') shall convene an Interagency Working Group (in this subsection referred to as the 'Working Group'), which shall consist of an employee from each of the following agencies, as selected by the head of the agency or an official delegated by the head of the agency:

''(A) The Office of the United States Trade Representative.

''(B) The Department of Commerce.

''(C) The Department of Agriculture.

''(D) Any other agency that the Chief Counsel, in consultation with the United States Trade Representative, determines to be relevant with respect to the subject of the trade agreement being negotiated pursuant to section 3(b) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (in this subsection referred to as the 'covered trade agreement').

''(2) Not later than 30 days after the date on which the Chief Counsel convenes the Working Group under paragraph (1), the Chief Counsel shall identify a diverse group of small entities, representatives of small entities, or a combination thereof, to provide to the Working Group the views of small businesses in the manufacturing, services, and agriculture industries on the potential economic effects of the covered trade agreement.

''(3)(A) Not later than 180 days after the date on which the Chief Counsel convenes the Working Group under paragraph (1), the Chief Counsel shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Finance of the Senate and the Committee on Small Business and the Committee on Ways and Means of the House of Representatives a report on the economic impacts of the covered trade agreement on small entities, which shall—

''(i) identify the most important priorities, opportunities, and challenges to various industries from the covered trade agreement;

''(ii) assess the impact for new small entities to start exporting, or increase their exports, to markets in the covered trade agreement;

''(iii) analyze the competitive position of industries likely to be significantly affected by the covered trade agreement;

''(iv) identify—

''(I) any State-owned enterprises in each country pertaining to the covered trade agreement that could be pose a threat to small entities; and

''(II) any steps to take to create a level-playing field for those small entities;

''(v) identify any rule of an agency that should be modified to become compliant with the covered trade agreement; and

''(vi) include an overview of the methodology used to develop the report, including the number of small entity participants by industry, how those small entities were selected, and any other factors that the Chief Counsel may determine appropriate.

''(B) To ensure that negotiations for the covered trade agreement are not disrupted, the President may require that the Chief Counsel delay submission of the report under subparagraph (A) until after the negotiations of the covered trade agreement are concluded, provided that the delay allows the Chief Counsel to submit the report to Congress not later than 45 days before the Senate or the House of Representatives acts to approve or disapprove the covered trade agreement.

''(C) The Chief Counsel shall, to the extent practicable, coordinate the submission of the report under this paragraph with the United States International Trade Commission, the United States Trade Representative, other agencies, and trade advisory committees to avoid unnecessary duplication of reporting requirements.''.

(d) STATE TRADE EXPANSION PROGRAM.—Section 22 of the Small Business Act (15 U.S.C. 652) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

''(l) STATE TRADE EXPANSION PROGRAM.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'eligible small business concern' means a business concern that—

''(i) is organized or incorporated in the United States;

''(ii) is operating in the United States;

''(iii) meets—

''(I) the applicable industry-based small business size standard established under section 3; or

''(II) the alternate size standard applicable to the program under section 7(a) of this Act and the loan programs under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

''(iv) has been in business for not less than 1 year, as of the date on which assistance using a grant under this subsection commences; and

''(v) has access to sufficient resources to bear the costs associated with trade, including the costs of packing, shipping, freight forwarding, and customs brokers;

''(B) the term 'program' means the State Trade Expansion Program established under paragraph (2);

''(C) the term 'rural small business concern' means an eligible small business concern located in a rural area, as that term is defined in section 1393(a)(2) of the Internal Revenue Code of 1986;

''(D) the term 'socially and economically disadvantaged small business concern' has the meaning given that term in section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)); and

''(E) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

''(2) ESTABLISHMENT OF PROGRAM.—The Associate Administrator shall establish a trade expansion program, to be known as the 'State Trade Expansion Program', to make grants to States to carry out programs that assist eligible small business concerns in—

''(A) a market expansion sales trip;

''(B) a subscription to services provided by the Department of Commerce;

''(C) the payment of website fees;

''(D) the design of marketing media;

''(E) a trade show exhibition;

''(F) participation in training workshops;

''(G) a reverse trade mission;

''(H) procurement of consultancy services (after consultation with the Department of Commerce to avoid duplication); or

''(I) any other initiative determined appropriate by the Associate Administrator.

''(3) GRANTS.—

''(A) JOINT REVIEW.—In carrying out the program, the Associate Administrator may make a grant to a State to increase the number of eligible small business concerns in the State exploring significant new trade opportunities.

''(B) CONSIDERATIONS.—In making grants under this subsection, the Associate Administrator may give priority to an application by a State that proposes a program that—

''(i) focuses on eligible small business concerns as part of a trade expansion program;

''(ii) demonstrates intent to promote trade expansion by—

''(I) socially and economically disadvantaged small business concerns;

''(II) small business concerns owned or controlled by women; and

''(III) rural small business concerns; and

''(iii) includes—

''(I) activities which have resulted in the highest return on investment based on the most recent year; and

''(II) the adoption of shared best practices included in the annual report of the Administration.

''(C) LIMITATIONS.—

''(i) SINGLE APPLICATION.—A State may not submit more than 1 application for a grant under the program in any 1 fiscal year.

''(ii) PROPORTION OF AMOUNTS.—The total value of grants made under the program during a fiscal year to the 10 States with the highest percentage of eligible small business concerns, based upon the most recent data available from the Department of Commerce, shall be not more than 40 percent of the amounts appropriated for the program for that fiscal year.

''(iii) DURATION.—The Associate Administrator shall award a grant under this program for a period of not more than 2 years.

''(D) APPLICATION.—

''(i) IN GENERAL.—A State desiring a grant under the program shall submit an application at such time, in such manner, and accompanied by such information as the Associate Administrator may establish.

''(ii) CONSULTATION TO REDUCE DUPLICATION.—A State desiring a grant under the program shall—

''(I) before submitting an application under clause (i), consult with applicable trade agencies of the Federal Government on the scope and mission of the activities the State proposes to carry out using the grant, to ensure proper coordination and reduce duplication in services; and

''(II) document the consultation conducted under subclause (I) in the application submitted under clause (i).

''(4) COMPETITIVE BASIS.—The Associate Administrator shall award grants under the program on a competitive basis.

''(5) FEDERAL SHARE.—The Federal share of the cost of an trade expansion program carried out using a grant under the program shall be—

''(A) for a State that has a high trade volume, as determined by the Associate Administrator, not more than 65 percent; and

''(B) for a State that does not have a high trade volume, as determined by the Associate Administrator, not more than 75 percent.

''(6) NON-FEDERAL SHARE.—The non-Federal share of the cost of a trade expansion program carried out using a grant under the program shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

''(7) REPORTS.—

''(A) INITIAL REPORT.—Not later than 120 days after the date of enactment of this subsection, the Associate Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report, which shall include—

''(i) a description of the structure of and procedures for the program;

''(ii) a management plan for the program; and

''(iii) a description of the merit-based review process to be used in the program.

''(B) ANNUAL REPORTS.—

''(i) IN GENERAL.—The Associate Administrator shall publish on the website of the Administration an annual report regarding the program, which shall include—

''(I) the number and amount of grants made under the program during the preceding year;

''(II) a list of the States receiving a grant under the program during the preceding year, including the activities being performed with each grant;

''(III) the effect of each grant on the eligible small business concerns in the State receiving the grant;

''(IV) the total return on investment for each State; and

''(V) a description of best practices by States that showed high returns on investment and significant progress in helping more eligible small business concerns.

''(ii) NOTICE TO CONGRESS.—On the date on which the Associate Administrator publishes a report under clause (i), the Associate Administrator shall notify the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that the report has been published.

''(8) REVIEWS BY INSPECTOR GENERAL.—

''(A) IN GENERAL.—The Inspector General of the Administration shall conduct a review of—

''(i) the extent to which recipients of grants under the program are measuring the performance of the activities being conducted and the results of the measurements; and

''(ii) the overall management and effectiveness of the program.

''(B) REPORTS.—

''(i) PILOT PROGRAM.—Not later than 6 months after the date of enactment of this subsection, the Inspector General of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the use of amounts made available under the State Trade and Export Promotion Grant Program under section 1207 of the Small Business Jobs Act of 2010 (15 U.S.C. 649b note).

''(ii) NEW STEP PROGRAM.—Not later than 18 months after the date on which the first grant is awarded under this subsection, the Inspector General of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the review conducted under subparagraph (A).

''(9) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program—

''(A) $30,000,000 for fiscal year 2016;

''(B) $35,000,000 for fiscal year 2017;

''(C) $40,000,000 for fiscal year 2018;

''(D) $45,000,000 for fiscal year 2019; and

''(E) $50,000,000 for fiscal year 2020.''.

(e) MEMBERSHIP OF REPRESENTATIVES OF STATE TRADE PROMOTION AGENCIES ON TRADE PROMOTION COORDINATING COMMITTEE.—Section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) is amended—

(1) in subsection (d)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

''(2) REPRESENTATIVES FROM STATE TRADE PROMOTION AGENCIES.—

''(A) IN GENERAL.—The TPCC shall also include 1 or more members appointed by the President, after consultation with associations representing State trade promotion agencies, who are representatives of State trade promotion agencies.

''(B) TERM.—A member appointed under subparagraph (A) shall be appointed for a term of 2 years.

''(C) PERSONNEL MATTERS.—

''(i) NO COMPENSATION.—A member of the TPCC appointed under subparagraph (A) shall serve without compensation.

''(ii) TRAVEL EXPENSES.—A member of the TPCC appointed under subparagraph (A) shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the homes or regular place of business of the member in the performance of services for the TPCC.

''(iii) ADMINISTRATIVE ASSISTANCE.—The Secretary of Commerce, or the head of another agency, as appropriate, shall make available to a member of the TPCC appointed under subparagraph (A) administrative services and assistance, including a security clearance, as the member may reasonably require to carry out services for the TPCC.''; and

(2) in subsection (e), in the first sentence, by inserting ''(other than members described in subsection (d)(2))'' after ''Members of the TPCC''.

(f) STATE AND FEDERAL EXPORT PROMOTION COORDINATION WORKING GROUP.—Subtitle C of the Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by inserting after section 2313 the following:

''SEC. 2313A. STATE AND FEDERAL EXPORT PROMOTION COORDINATION WORKING GROUP.

''(a) STATEMENT OF POLICY.—It is the policy of the United States to promote exports as an opportunity for small businesses. In exercising their powers and functions in order to advance that policy, all Federal departments and agencies shall work constructively with State and local agencies engaged

in export promotion and export financing activities.

''(b) ESTABLISHMENT.—The President shall establish a State and Federal Export Promotion Coordination Working Group (in this section referred to as the 'Working Group') as a subcommittee of the Trade Promotion Coordination Committee (in this section referred to as the 'TPCC').

''(c) PURPOSES.—The purposes of the Working Group are—

''(1) to identify issues related to the coordination of Federal resources relating to export promotion and export financing with such resources provided by State and local governments;

''(2) to identify ways to improve coordination with respect to export promotion and export financing activities through the strategic plan developed under section 2312(c);

''(3) to develop a strategy for improving coordination of Federal and State resources relating to export promotion and export financing, including methods to eliminate duplication of effort and overlapping functions; and

''(4) to develop a strategic plan for considering and implementing the suggestions of the Working Group as part of the strategic plan developed under section 2312(c).

''(d) MEMBERSHIP.—The Secretary of Commerce shall select the members of the Working Group, who shall include—

''(1) representatives from State trade agencies representing regionally diverse areas; and

''(2) representatives of the departments and agencies that are represented on the TPCC, who are designated by the heads of their respective departments or agencies to advise the head on ways of promoting the exportation of United States goods and services.''.

(g) REPORT ON IMPROVEMENTS TO EXPORT.GOV AS A SINGLE WINDOW FOR EXPORT INFORMATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Associate Administrator for International Trade of the Small Business Administration shall, after consultation with the entities specified in paragraph (2), submit to the appropriate congressional committees a report that includes the recommendations of the Associate Administrator for improving the experience provided by the Internet website Export.gov (or a successor website) as—

(A) a comprehensive resource for information about exporting articles from the United States; and

(B) a single website for exporters to submit all information required by the Federal Government with respect to the exportation of articles from the United States.

(2) ENTITIES SPECIFIED.—The entities specified in this paragraph are—

(A) small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) that are exporters; and

(B) the President's Export Council, State agencies with responsibility for export promotion or export financing, district export councils, and trade associations.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term ''appropriate congressional committees'' means—

(A) the Committee on Small Business and Entrepreneurship and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Small Business and the Committee on Foreign Affairs of the House of Representatives.

(h) SMALL BUSINESS INTERAGENCY TASK FORCE ON EXPORT FINANCING.—

(1) IN GENERAL.—The Administrator of the Small Business Administration, the Secretary of Agriculture, the Export-Import Bank of the United States, and the Overseas Private Investment Corporation shall jointly establish a Small Business Inter-Agency Task Force on Export Financing to—

(A) review and improve Federal export finance programs for small business concerns; and

(B) coordinate the activities of the Federal Government to assist small business concerns seeking to export.

(2) DEFINITION.—In this subsection, the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

(i) AVAILABILITY OF STATE RESOURCES GUIDES ON EXPORT.GOV.—The Secretary of Commerce shall make available on the Internet website Export.gov (or a successor website) information on the resources relating to export promotion and export financing available in each State—

(1) organized by State; and

(2) including information on State agencies with responsibility for export promotion or export financing and district export councils and trade associations located in the State.

SA 1417. Ms. HEITKAMP submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

On page 14, after line 24, add the following:

(v) procedures to ensure the independence and impartiality of arbitrators and to prevent actual and perceived conflicts of interest;

(H) clarifying that, under the dispute settlement mechanism, the burden is on the investor to establish each applicable element of the minimum standard of treatment, based on evidence of the general and consistent practices of the government;

(I) preserving the right of parties to a trade agreement to regulate to protect legitimate public welfare objectives, such as public health, safety, and the environment; and

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SA 1418. Mr. DAINES submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the end of section 102(b), add the following:

(21) PROTECTION OF INDIAN EXPORTS AND TREATY RIGHTS.—

(A) IN GENERAL.—The principal negotiating objectives of the United States with respect to the protection of exports and treaty rights of Indian tribes are to ensure that—

(i) goods of or for the benefit of Indian tribes may be exported through ports in the United States;

(ii) treaty rights of Indian tribes are protected; and

(iii) goods of or for the benefit of Indian tribes have the opportunity to compete in the world market.

(B) INDIAN TRIBE DEFINED.—In this paragraph, the term ''Indian tribe'' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SA 1419. Mr. SULLIVAN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

On page 36, between lines 17 and 18, insert the following:

(21) ENERGY NEGOTIATIONS.—The principal negotiating objectives of the United States with respect to trade in energy products and natural resources, including hydrocarbons such as oil, gas, and coal, and mineral and timber resources, are to obtain competitive opportunities for United States exports of energy products and natural resources in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports of energy products and natural resources in United States markets and to achieve fairer and more open conditions of trade in energy products and natural resources.

SA 1420. Mr. SULLIVAN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

On page 36, between lines 17 and 18, insert the following:

(21) FISHERIES NEGOTIATIONS.—The principal negotiating objectives of the United States with respect to trade in fish, seafood, and shellfish products are to obtain competitive opportunities for United States exports of fish, seafood, and shellfish products in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports of fish, seafood, and shellfish products in United States markets and to achieve fairer and more open conditions of trade in fish, seafood, and shellfish products.

SA 1421. Mr. BLUMENTHAL (for himself and Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

In section 102(b), add at the end the following:

(21) FOOD SAFETY.—The principal negotiating objectives of the United States with respect to food safety are—

(A) to ensure that a trade agreement does not weaken or diminish food safety standards that protect public health;

(B) to promote strong food safety laws and regulations in the United States; and

(C) to maintain and strengthen food safety inspection systems, including the inspection of meat, poultry, seafood, and egg products exported to the United States.

SA 1422. Mr. HEINRICH submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend

the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

On page 116, beginning on line 4, strike ''and occupational safety and health,'' and insert ''occupational safety and health, compensation in cases of occupational injuries and illnesses, and social security and retirement,''.

SA 1423. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 1248 submitted by Ms. CANTWELL and intended to be proposed to the amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

Beginning on page 17 of the amendment, strike line 14 and all that follows through page 18, line 11.

SA 1424. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—TRADE PREFERENCES FOR NEPAL

SEC. 301. SHORT TITLE.

This title may be cited as the ''Nepal Trade Preferences Act''.

SEC. 302. SENSE OF CONGRESS.

It is the sense of Congress that it should be an objective of the United States to use trade policies and trade agreements to contribute to the reduction of poverty and the elimination of hunger.

SEC. 303. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—The President may authorize the provision of preferential treatment under this title to articles that are imported directly from Nepal into the customs territory of the United States pursuant to section 304 if the President determines—

(1) that Nepal meets the requirements set forth in paragraphs (1), (2), and (3) of section 104(a) of the African Growth and Opportunity Act (19 U.S.C. 3703(a)); and

(2) after taking into account the factors set forth in paragraphs (1) through (7) of subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462), that Nepal meets the eligibility requirements of such section 502.

(b) WITHDRAWAL, SUSPENSION, OR LIMITATION OF PREFERENTIAL TREATMENT; MANDATORY GRADUATION.—The provisions of subsections (d) and (e) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) shall apply with respect to Nepal to the same extent and in the same manner as such provisions apply with respect to beneficiary developing countries under title V of that Act (19 U.S.C. 2461 et seq.).

SEC. 304. ELIGIBLE ARTICLES.

(a) IN GENERAL.—An article described in subsection (b) may enter the customs territory of the United States free of duty.

(b) ARTICLES DESCRIBED.—

(1) IN GENERAL.—An article is described in this subsection if—

(A)(i) the article is the growth, product, or manufacture of Nepal; and

(ii) in the case of a textile or apparel article, Nepal is the country of origin of the article, as determined under section 102.1 of title 19, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act);

(B) the article is imported directly from Nepal into the customs territory of the United States;

(C) the article is classified under any of the following subheadings of the Harmonized Tariff Schedule of the United States (as in effect on the day before the date of the enactment of this Act):

4202.11.00	4202.22.60	4202.92.08
4202.12.20	4202.22.70	4202.92.15
4202.12.40	4202.22.80	4202.92.20
4202.12.60	4202.29.50	4202.92.30
4202.12.80	4202.29.90	4202.92.45
4202.21.60	4202.31.60	4202.92.60
4202.21.90	4202.32.40	4202.92.90
4202.22.15	4202.32.80	4202.99.90
4202.22.40	4202.32.95	4203.29.50
4202.22.45	4202.91.00	
5701.10.90	5702.91.30	5703.10.80
5702.31.20	5702.91.40	5703.90.00
5702.49.20	5702.92.90	5705.00.20
5702.50.40	5702.99.15	
5702.50.59	5703.10.20	
6117.10.60	6214.20.00	6217.10.85
6117.80.85	6214.40.00	6301.90.00
6214.10.10	6214.90.00	6308.00.00
6214.10.20	6216.00.80	
6504.00.90	6505.00.30	6505.00.90
6505.00.08	6505.00.40	6506.99.30
6505.00.15	6505.00.50	6506.99.60
6505.00.20	6505.00.60	
6505.00.25	6505.00.80	

(D) the President determines, after receiving the advice of the United States International Trade Commission in accordance with section 503(e) of the Trade Act of 1974 (19 U.S.C. 2463(e)), that the article is not import-sensitive in the context of imports from Nepal; and

(E) subject to paragraph (3), the sum of the cost or value of the materials produced in, and the direct costs of processing operations performed in, Nepal or the customs territory of the United States is not less than 35 percent of the appraised value of the article at the time it is entered.

(2) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of Nepal for purposes of paragraph (1)(A)(i) by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) LIMITATION ON UNITED STATES COST.—For purposes of paragraph (1)(E), the cost or value of materials produced in, and the direct costs of processing operations performed in, the customs territory of the United States and attributed to the 35-percent requirement under that paragraph may not exceed 15 percent of the appraised value of the article at the time it is entered.

(c) VERIFICATION WITH RESPECT TO TRANSSHIPMENT FOR TEXTILE AND APPAREL ARTICLES.—

(1) IN GENERAL.—Not later than April 1, July 1, October 1, and January 1 of each year, the Commissioner responsible for U.S. Customs and Border Protection shall verify that textile and apparel articles imported from Nepal to which preferential treatment is extended under this title are not being unlawfully transshipped into the United States.

(2) REPORT TO PRESIDENT.—If the Commissioner determines pursuant to paragraph (1) that textile and apparel articles imported from Nepal to which preferential treatment is extended under this title are being unlawfully transshipped into the United States, the Commissioner shall report that determination to the President.

SEC. 305. TRADE FACILITATION AND CAPACITY BUILDING.

(a) FINDINGS.—Congress makes the following findings:

(1) As a land-locked least-developed country, Nepal has severe challenges reaching markets and developing capacity to export goods. As of 2015, exports from Nepal are approximately $800,000,000 per year, with India the major market at $450,000,000 annually. The United States imports about $80,000,000 worth of goods from Nepal, or 10 percent of the total goods exported from Nepal.

(2) The World Bank has found evidence that the overall export competitiveness of Nepal has been declining since 2005. Indices compiled by the World Bank and the Organization for Economic Co-operation and Development found that export costs in Nepal are high with respect to both air cargo and container shipments relative to other low-income countries. Such indices also identify particular weaknesses in Nepal with respect to automation of customs and other trade functions, involvement of local exporters and importers in preparing regulations and trade rules, and export finance.

(3) Implementation by Nepal of the Agreement on Trade Facilitation of the World Trade Organization could directly address some of the weaknesses described in paragraph (2).

(b) ESTABLISHMENT OF TRADE FACILITATION AND CAPACITY BUILDING PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the President shall, in consultation with the Government of Nepal, establish a trade facilitation and capacity building program for Nepal—

(1) to enhance the central export promotion agency of Nepal to support successful exporters and to build awareness among potential exporters in Nepal about opportunities abroad and ways to manage trade documentation and regulations in the United States and other countries;

(2) to provide export finance training for financial institutions in Nepal and the Government of Nepal;

(3) to assist the Government of Nepal in maintaining publication of all trade regulations, forms for exporters and importers, tax and tariff rates, and other documentation relating to exporting goods on the Internet and developing a robust public-private dialogue, through its National Trade Facilitation Committee, for Nepal to identify timelines for implementation of key reforms and solutions, as provided for under the Agreement on Trade Facilitation of the World Trade Organization; and

(4) to increase access to guides for importers and exporters on the Internet, including rules and documentation for United States tariff preference programs.

SEC. 306. REPORTING REQUIREMENT.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the President shall monitor, review, and report to Congress on the implementation of this title, the compliance of Nepal with section 303(a), and the trade and investment policy of the United States with respect to Nepal.

SEC. 307. TERMINATION OF PREFERENTIAL TREATMENT.

No preferential treatment extended under this title shall remain in effect after December 31, 2025.

SEC. 308. EFFECTIVE DATE.

The provisions of this title shall take effect on January 1, 2016.

SA 1425. Ms. HIRONO submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 213. EXTENSION OF ADJUSTMENT ASSISTANCE TO TERRITORIES.

(a) IN GENERAL.—Except as provided in subsection (b), during the period beginning on October 1, 2015, and ending on June 30, 2021, workers, firms, and agricultural commodity producers in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands of the United States shall be eligible for adjustment assistance under chapters 2 through 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) to the same extent as workers, firms, and agricultural commodity producers in a State (as defined in section 247 of that Act (19 U.S.C. 2319)).

(b) EXCEPTION.—Benefits under sections 231 through 234 of the Trade Act of 1974 (19 U.S.C. 2291 through 2294) and under section 246 of that Act (19 U.S.C. 2318) shall not be available to workers in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands of the United States.

(c) FORMULA FOR TRAINING FUNDS.—In making distributions of funds for a fiscal year to States under section 236(a)(2) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)), the Secretary of Labor shall distribute an amount equal to 1 percent of such funds among American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands of the United States, based on criteria established by the Secretary.

(d) REGULATORY CHANGES.—The Secretary of Labor and the heads of other appropriate agencies shall make the necessary changes to the regulations of the Department of Labor and those other agencies in order to carry out this section.

SA 1426. Ms. HIRONO submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

On page 64, between lines 16 and 17, insert the following:

(f) CONSULTATIONS WITH TRADE ADVISORY COMMITTEES.—

(1) IN GENERAL.—Section 135 of the Trade Act of 1974 (19 U.S.C. 2155) is amended by striking subsection (m) and inserting the following:

''(m) CONGRESSIONAL CONSULTATIONS WITH ADVISORY COMMITTEES.—

''(1) CONSULTATIONS BY CONGRESSIONAL COMMITTEES.—An appropriate congressional committee may request consultations with an advisory committee established under subsection (b) or (c) with respect to trade agreements in effect or negotiations for trade agreements.

''(2) CONSULTATIONS BY MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.—Members of Congress and staff of such Members with proper security clearances may consult with individual members of an advisory committee established under subsection (b) or (c) with respect to negotiations for trade agreements in effect or negotiations for trade agreements.

''(3) APPLICABILITY OF CERTAIN FACA REQUIREMENTS.—The approval of the designated Federal officer for an advisory committee established under subsection (b) or (c) shall not be required with respect to consultations under paragraphs (1) and (2).

''(n) REPORTS.—

''(1) IN GENERAL.—An advisory committee established under subsection (b) or (c) may at any time submit to the President a report on matters being considered by the committee without the approval of the designated Federal officer for that committee.

''(2) SUBMISSION TO CONGRESS.—A report submitted to the President under paragraph (1), including any dissenting or minority views, shall be submitted to the appropriate congressional committees and Members of Congress and staff of such Members with proper security clearances.

''(3) PUBLIC AVAILABILITY.—If a report of an advisory committee submitted to the President under paragraph (1) does not include any classified information, the advisory committee may request the designated Federal officer for that committee to make the report available to the public.

''(o) DEFINITIONS.—In this section:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

''(B) any other committee of the House or the Senate with jurisdiction over laws that are or could be affected by a trade agreement.

''(2) DESIGNATED FEDERAL OFFICER.—The term 'designated Federal officer' means an officer or employee of the Federal Government designated to chair or attend each meeting of each advisory committee under section 10(e) of the Federal Advisory Committee Act (5 U.S.C. App.).

''(3) NON-FEDERAL GOVERNMENT.—The term 'non-Federal government' means—

''(A) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

''(B) any agency or instrumentality of any entity described in subparagraph (A).

''(4) PROPER SECURITY CLEARANCES.—The term 'proper security clearances' has the meaning of that term as used in section 104 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.''.

(2) REQUIREMENTS FOR MEETINGS.—Section 135 of such Act is amended—

(A) in subsection (b)—

(i) in paragraph (2), by striking the first sentence; and

(ii) by adding at the end the following:

''(4) The committee shall meet as needed at the call of the chairman of the committee or at the call of one-third of the members of the committee. The designated Federal officer shall be notified of any such meeting and shall provide notice of the meeting in accordance with section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), but, notwithstanding any provision of that Act, the attendance of such officer at the meeting is not required.''; and

(B) in subsection (c), by adding at the end the following:

''(5) A committee established under paragraph (1), (2), or (3) shall meet as needed at the call of the chairman of the committee or at the call of one-third of the members of the committee. The designated Federal officer shall be notified of any such meeting and shall provide notice of the meeting in accordance with section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), but, notwithstanding any provision of that Act, the attendance of such officer at the meeting is not required.''.

SA 1427. Mr. SCHATZ submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

On page 24, between lines 11 and 12, insert the following:

(iv) adopts and maintains, in national laws, regulations, or measures, prohibitions against trading across borders in products harvested or exported in violation of national laws that seek to protect wildlife, forests, or living marine resources,

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SA 1428. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the end of section 106(b), add the following:

(7) LIMITATIONS ON PROCEDURES WITH RESPECT TO AGREEMENTS WITH CERTAIN COUNTRIES.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 103(b) with a country with respect to which the United States has not yet promulgated import rules as required by section 804(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(b)).

SA 1429. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the end of section 106(b), add the following:

(7) LIMITATIONS ON PROCEDURES WITH RESPECT TO AGREEMENTS WITH CERTAIN COUNTRIES.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 103(b) with a country with respect to which the United States has not yet promulgated import rules regulating the importation of prescription drugs.

SA 1430. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

On page 100, between lines 13 and 14, insert the following:

(B) EXCEPTION.—

(i) INVOKING EXCEPTION.—If the President submits to the appropriate congressional committees a letter stating that a country subject to subparagraph (A) has taken concrete actions to implement the principal recommendations in the most recent annual report on trafficking in persons, this paragraph shall not apply with respect to agreements with that country.

(ii) CONTENT OF LETTER; PUBLIC AVAILABILITY.—A letter submitted under clause (i) with respect to a country shall—

(I) include a description of the concrete actions that the country has taken to implement the principal recommendations described in clause (i); and

(II) be made available to the public.

(iii) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subparagraph, the term ''appropriate congressional committees'' means—

(I) the Committee on Ways and Means and the Committee on Foreign Affairs of the House of Representatives; and

(II) the Committee on Finance and the Committee on Foreign Relations of the Senate.

SA 1431. Mr. TILLIS submitted an amendment intended to be proposed by him to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. INFORMATION REGARDING H–2B VISA ISSUANCE.

The Secretary of Homeland Security may not authorize any official of the Department of Homeland Security to travel to any conference or symposium until after the Secretary—

(1) has submitted to Congress, and made publicly available—

(A) the methodology used to determine when the numerical limitation on H–2B visas set forth in section 214(g)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(B)) has been reached for each of fiscal years 2012 through 2015, including the number of petitions for such status that had been accepted by U.S. Citizenship and Immigration Services at the time such determination was made; and

(B) the number of petitions for H–2B visas that had been received by U.S. Citizenship and Immigration Services for fiscal year 2015—

(i) on or before March 5, 2015;

(ii) on or before March 17, 2015; and

(iii) on or before March 26, 2015;

(2) has conducted a study that confirms the efficacy of the methodology used by the Department of Homeland Security to determine whether the numerical limitation referred to in paragraph (1) has been reached;

(3) submits a report to Congress information that contains—

(A) information about any investigations or lawsuits regarding the methodology described in paragraph (2);

(B) any revisions made to such methodology during the past 10 fiscal years;

(C) contemporaneous work product establishing how the numerical limitation referred to in paragraph (1) was calculated during the past 10 fiscal years;

(D) a complete statement of the methodology for determining when the H–2B visa cap is reached for a fiscal year; and

(E) the number of ''target beneficiaries'' for the first 6 months and for the last 6 months of fiscal year 2015.

SA 1432. Mr. FRANKEN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUNITY COLLEGE TO CAREER FUND.

(a) SHORT TITLE.—This section may be cited as the ''Community College to Career Fund Act''.

(b) COMMUNITY COLLEGE TO CAREER FUND.—Title I of the Workforce Innovation and Opportunity Act is amended by adding at the end the following:

''Subtitle F—Community College to Career Fund

''SEC. 199. COMMUNITY COLLEGE AND INDUSTRY PARTNERSHIPS PROGRAM.

''(a) GRANTS AUTHORIZED.—From funds appropriated under section 199A, the Secretary of Labor (in coordination with the Secretary of Education and the Secretary of Commerce) shall award competitive grants to eligible entities described in subsection (b) for the purpose of developing, offering, improving, and providing educational or career training programs for workers.

''(b) ELIGIBLE ENTITY.—

''(1) PARTNERSHIPS WITH EMPLOYERS OR AN EMPLOYER OR INDUSTRY PARTNERSHIP.—

''(A) GENERAL DEFINITION.—For purposes of this section, an 'eligible entity' means any of the entities described in subparagraph (B) (or a consortium of any of such entities) in partnership with employers or an employer or industry partnership representing multiple employers.

''(B) DESCRIPTION OF ENTITIES.—The entities described in this subparagraph are—

''(i) a community college;

''(ii) a 4-year public institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) that offers 2-year degrees, and that will use funds provided under this section for activities at the certificate and associate degree levels;

''(iii) a Tribal College or University (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); or

''(iv) a private or nonprofit, 2-year institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) in the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau.

''(2) ADDITIONAL PARTNERS.—

''(A) AUTHORIZATION OF ADDITIONAL PARTNERS.—In addition to partnering with employers or an employer or industry partnership representing multiple employers as described in paragraph (1)(A), an entity described in paragraph (1) may include in the partnership described in paragraph (1) 1 or more of the organizations described in subparagraph (B). Each eligible entity that includes 1 or more such organizations shall collaborate with the State or local board in the area served by the eligible entity.

''(B) ORGANIZATIONS.—The organizations described in this subparagraph are as follows:

''(i) A provider of adult education (as defined in section 203) or an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

''(ii) A community-based organization.

''(iii) A joint labor-management partnership.

''(iv) A State or local board.

''(v) Any other organization that the Secretaries consider appropriate.

''(c) EDUCATIONAL OR CAREER TRAINING PROGRAM.—For purposes of this section, the Governor of the State in which at least 1 of the entities described in subsection (b)(1)(B) of an eligible entity is located shall establish criteria for an educational or career training program leading to a recognized postsecondary credential for which an eligible entity submits a grant proposal under subsection (d).

''(d) APPLICATION.—An eligible entity seeking a grant under this section shall submit an application containing a grant proposal, for an educational or career training program leading to a recognized postsecondary credential, to the Secretaries at such time and containing such information as the Secretaries determine is required, including a detailed description of—

''(1) the extent to which the educational or career training program described in the grant proposal fits within an overall strategic plan consisting of—

''(A) the State plan described in section 102 or 103, for the State involved;

''(B) the local plan described in section 108, for each local area that comprises a significant portion of the area to be served by the eligible entity; and

''(C) a strategic plan developed by the eligible entity;

''(2) the extent to which the program will meet the needs of employers in the area for skilled workers in in-demand industry sectors and occupations;

''(3) the extent to which the program will meet the educational or career training needs of workers in the area;

''(4) the specific educational or career training program and how the program meets the criteria established under subsection (e), including the manner in which the grant will be used to develop, offer, improve, and provide the educational or career training program;

''(5) any previous experience of the eligible entity in providing educational or career training programs, the absence of which shall not automatically disqualify an eligible institution from receiving a grant under this section; and

''(6) how the program leading to the credential meets the criteria described in subsection (c).

''(e) CRITERIA FOR AWARD.—

''(1) IN GENERAL.—Grants under this section shall be awarded based on criteria established by the Secretaries, that include the following:

''(A) A determination of the merits of the grant proposal submitted by the eligible entity involved to develop, offer, improve, and provide an educational or career training program to be made available to workers.

''(B) An assessment of the likely employment opportunities available in the area to individuals who complete an educational or career training program that the eligible entity proposes to develop, offer, improve, and provide.

''(C) An assessment of prior demand for training programs by individuals eligible for training and served by the eligible entity, as well as availability and capacity of existing (as of the date of the assessment) training

programs to meet future demand for training programs.

''(2) PRIORITY.—In awarding grants under this section, the Secretaries shall give priority to eligible entities that—

''(A) include a partnership, with employers or an employer or industry partnership, that—

''(i) pays a portion of the costs of educational or career training programs; or

''(ii) agrees to hire individuals who have attained a recognized postsecondary credential resulting from the educational or career training program of the eligible entity;

''(B) enter into a partnership with a labor organization or labor-management training program to provide, through the program, technical expertise for occupationally specific education necessary for a recognized postsecondary credential leading to a skilled occupation in an in-demand industry sector;

''(C) are focused on serving individuals with barriers to employment, low-income, non-traditional students, students who are dislocated workers, students who are veterans, or students who are long-term unemployed;

''(D) include any eligible entities serving areas with high unemployment rates;

''(E) are eligible entities that include an institution of higher education eligible for assistance under title III or V of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq.; 20 U.S.C. 1101 et seq.); and

''(F) include a partnership, with employers or an employer or industry partnership, that increases domestic production of goods.

''(f) USE OF FUNDS.—Grant funds awarded under this section shall be used for one or more of the following:

''(1) The development, offering, improvement, and provision of educational or career training programs, that provide relevant job training for skilled occupations, that lead to recognized postsecondary credentials, that will meet the needs of employers in in-demand industry sectors, and that may include registered apprenticeship programs, on-the-job training programs, and programs that support employers in upgrading the skills of their workforce.

''(2) The development and implementation of policies and programs to expand opportunities for students to earn a recognized postsecondary credential, including a degree, in in-demand industry sectors and occupations, including by—

''(A) facilitating the transfer of academic credits between institutions of higher education, including the transfer of academic credits for courses in the same field of study;

''(B) expanding articulation agreements and policies that guarantee transfers between such institutions, including through common course numbering and use of a general core curriculum; and

''(C) developing or enhancing student support services programs.

''(3) The creation of career pathway programs that provide a sequence of education and occupational training that leads to a recognized postsecondary credential, including a degree, including programs that—

''(A) blend basic skills and occupational training;

''(B) facilitate means of transitioning participants from non-credit occupational, basic skills, or developmental coursework to for-credit coursework within and across institutions;

''(C) build or enhance linkages, including the development of dual enrollment programs and early college high schools, between secondary education or adult education programs (including programs established under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) and title II of this Act);

''(D) are innovative programs designed to increase the provision of training for students, including students who are members of the National Guard or Reserves, to enter skilled occupations in in-demand industry sectors; and

''(E) support paid internships that will allow students to simultaneously earn credit for work-based learning and gain relevant employment experience in an in-demand industry sector or occupation, which shall include opportunities that transition individuals into employment.

''(4) The development and implementation of—

''(A) a Pay-for-Performance program that leads to a recognized postsecondary credential, for which an eligible entity agrees to be reimbursed under the grant primarily on the basis of achievement of specified performance outcomes and criteria agreed to by the Secretary; or

''(B) a Pay-for-Success program that leads to a recognized postsecondary credential, for which an eligible entity—

''(i) enters into a partnership with an investor, such as a philanthropic organization that provides funding for a specific project to address a clear and measurable educational or career training need in the area to be served under the grant; and

''(ii) agrees to be reimbursed under the grant only if the project achieves specified performance outcomes and criteria agreed to by the Secretary.

''SEC. 199A. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the program established by section 199.

''(b) ADMINISTRATIVE COST.—Not more than 5 percent of the amounts made available under subsection (a) may be used by the Secretaries to administer the program described in that subsection, including providing technical assistance and carrying out evaluations for the program described in that subsection.

''(c) PERIOD OF AVAILABILITY.—The funds appropriated pursuant to subsection (a) for a fiscal year shall be available for Federal obligation for that fiscal year and the succeeding 2 fiscal years.

''SEC. 199B. DEFINITION.

''For purposes of this subtitle, the term 'community college' has the meaning given the term 'junior or community college' in section 312(f) of the Higher Education Act of 1965 (20 U.S.C. 1058(f)).''.

(c) CONFORMING AMENDMENT.—The table of contents for the Workforce Innovation and Opportunity Act is amended by inserting after the items relating to subtitle E of title I the following:

''Subtitle F—Community College to Career Fund

''Sec. 199. Community college and industry partnerships program.
''Sec. 199A. Authorization of appropriations.
''Sec. 199B. Definition.''.

(d) EFFECTIVE DATE.—This section, including the amendments made by this section, take effect as if included in the Workforce Innovation and Opportunity Act.

SA 1433. Ms. BALDWIN submitted an amendment intended to be proposed to amendment SA 1312 submitted by Mr. INHOFE (for himself and Mr. COONS) to the amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. TRANSSHIPMENT OF LIGHTWEIGHT THERMAL PAPER.

(a) IN GENERAL.—The Commissioner responsible for U.S. Customs and Border Protection (in this section referred to as the ''Commissioner'') shall direct appropriate personnel and resources of U.S. Customs and Border Protection to address concerns that lightweight thermal paper is being imported into the United States in violation of the customs and trade laws of the United States.

(b) DATABASE OF CHARACTERISTICS OF IMPORTED LIGHTWEIGHT THERMAL PAPER.—

(1) IN GENERAL.—The Commissioner shall, in consultation with the Secretary of Commerce, compile a database of the individual characteristics of lightweight thermal paper produced in foreign countries, especially lightweight thermal paper produced in the People's Republic of China, Malaysia, Taiwan, South Korea, Spain, Finland, Japan, Thailand, and Germany, to facilitate the verification of country of origin markings of lightweight thermal paper imported into the United States.

(2) ENGAGEMENT WITH FOREIGN GOVERNMENTS.—The Commissioner shall seek to engage the customs agencies of foreign governments for assistance in compiling the database described in paragraph (1).

(3) CONSULTATION WITH INDUSTRY.—In compiling the database described in paragraph (1), the Commissioner shall consult with entities in the lightweight thermal paper industry regarding the development of industry standards for identification of lightweight thermal paper.

(c) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit to Congress a report that—

(1) describes and assesses the limitations in the existing analysis capabilities of laboratories with respect to determining the country of origin of samples of lightweight thermal paper; and

(2) includes any recommendations of the Commissioner for improving such capabilities.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Commerce should promptly establish a national standard of identity for lightweight thermal paper for the Commissioner to use to ensure that imports of lightweight thermal paper are—

(1) classified accurately for purposes of assessing duties; and

(2) denied entry into the United States if such imports pose a threat to the domestic lightweight thermal paper industry.

SA 1434. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1251 submitted by Mr. BROWN (for himself, Mr. PETERS, Mr. SCHUMER, Ms. STABENOW, Mr. MENENDEZ, and Mr. CASEY) to the amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

Beginning on page 1 of the amendment, strike ''ADDITIONAL COUNTRIES'' on line 2 and all that follows and insert the following:

PROCEDURES WITH RESPECT TO AGREEMENTS WITH COUNTRIES NOT IN COMPLIANCE WITH TRAFFICKING VICTIMS PROTECTION ACT OF 2000.—

(1) INVOKING EXCEPTION.—If the President submits to the appropriate congressional committees a letter stating that a country subject to paragraph (6) of section 106(b) has taken concrete actions to implement the principal recommendations in the most recent annual report on trafficking in persons described in that paragraph, that paragraph shall not apply with respect to agreements with that country.

(2) CONTENT OF LETTER; PUBLIC AVAILABILITY.—A letter submitted under paragraph (1) with respect to a country shall—

(A) include a description of the concrete actions that the country has taken to implement the principal recommendations described in paragraph (1); and

(B) be made available to the public.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term ''appropriate congressional committees'' means—

(A) the Committee on Ways and Means and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Finance and the Committee on Foreign Relations of the Senate.

SA 1435. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1327 submitted by Ms. WARREN (for herself, Ms. HEITKAMP, Mr. MANCHIN, Mr. DURBIN, Mrs. BOXER, Mr. BROWN, Mr. CASEY, Mr. FRANKEN, Mr. BLUMENTHAL, Ms. BALDWIN, Mr. MARKEY, Mr. PETERS, Mr. WHITEHOUSE, Mr. SCHATZ, Mr. UDALL, and Mr. HEINRICH) to the amendment SA 1221 proposed by Mr. HATCH to the bill H.R. 1314, to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; which was ordered to lie on the table; as follows:

Beginning on page 1 of the amendment, strike ''FOR AGREEMENTS'' on line 2 and all that follows and insert the following:

ADDITIONAL OVERALL NEGOTIATING OBJECTIVE.—In addition to the objectives set forth in section 102(a), an overall negotiating objective of the United States for trade agreements entered into under section 103 is to ensure that such agreements do not require changes to the immigration laws of the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I as unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 20, 2015, at 10:30 a.m., in room SR–253 of the Russell Senate Office Building.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I as unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 20, 2015, at 2:30 p.m., in room SR–253 of the Russell Senate Office Building to conduct a Subcommittee hearing entitled ''Improvements and Innovations in Fishery Management and Data Collection.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I as unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 20, 2015, at 10 a.m., to conduct a hearing entitled ''U.S. Cuban Relations—The Way Forward.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I as unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 20, 2015, at 2:30 p.m., to conduct a hearing entitled ''Nominations.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. CORNYN. Mr. President, I as unanimous consent that the Committee on Health, Education, Labor and Pensions be authorized to meet during the session of the Senate on May 20, 2015, at 10 a.m., in room SD–430 of the Dirksen Senate Office Building to conduct a hearing entitled ''Reauthorizing the Higher Education Act: Exploring Institutional Risk-sharing.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on May 20, 2015, in room SD-628 of the Dirksen Senate Office Building, at 2;15 p.m., to conduct a hearing entitled ''Addressing the Needs of Native Communities Through Indian Water Rights Settlements.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on May 20, 2015, at 10 a.m., in room SH-216 of the Hart Senate Office Building.

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

SPECIAL COMMITTEE ON AGING

Mr. CORNYN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on May 20, 2015, in room SD-562 of the Dirksen Senate Office Building, at 2:15 p.m., to conduct a hearing entitled ''Challenging the Status Quo: Solutions to the Hospital Observation Stay Crisis.''

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on the Constitution, be authorized to meet during the session of the Senate on May 20, 2015, at 2:30 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Taking Sexual Assault Seriously: The Rape Kit Backlog and Human Rights.''

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

SUBCOMMITTEE ON REGULATORY AFFAIRS AND FEDERAL MANAGEMENT

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Regulatory Affairs and Federal Management of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 20, 2015, at 10 a.m., to conduct a hearing entitled ''21st Century Ideas for the 20th Century Federal Civil Service.''

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

SUBCOMMITTEE ON SUPERFUND, WASTE MANAGEMENT, AND REGULATORY OVERSIGHT

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Management, and Regulatory Oversight of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on May 20, 2015, at 9:30 a.m., in room SD-406 of the Dirksen Senate Office Building, to conduct a hearing entitled, ''Oversight of Scientific Advisory Panels and Processes at the Environmental Protection Agency.''

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

CORRECTING THE ENROLLMENT OF S. 178

Mr. CASSIDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 47, which is at the desk.

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

The senior assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 47) to correct the enrollment of S. 178.

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

Mr. CASSIDY. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 47) was agreed to.

MEASURE READ THE FIRST TIME—H.R. 2353

Mr. CASSIDY. Mr. President, I understand there is a bill at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The senior assistant legislative clerk read as follows:

A bill (H.R. 2353) to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund, and for other purposes.

Mr. CASSIDY. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read for the second time on the next legislative day.

ORDERS FOR THURSDAY, MAY 21, 2015

Mr. CASSIDY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m., Thursday, May 21; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following leader remarks, the Senate then resume consideration of H.R. 1314, with the time until the cloture vote at 10 a.m. equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. CASSIDY. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 11:57 p.m., adjourned until Thursday, May 21, 2015, at 9 a.m.