and pass new laws that help keep us safe.

I have three amendments, new amendments, that have not been voted on this session. They are three amendments that actually could keep more Americans free of gun violence.

First is a law enforcement bill. It is a bipartisan gun trafficking amendment which would finally make gun trafficking a Federal crime. One would assume that bringing weapons up I–95 and selling them out of the back of a truck to a gang member in New York City would be illegal, that it would be a Federal crime. It is not. It is not a Federal crime to do that.

This bill is called the Hadiya Pendleton and Nyasia Pryear-Yard Gun Trafficking and Crime Prevention Act. It is named after two teenage girls who lost their lives because of gun violence in their neighborhoods. They were playing with friends, minding their own business, and a stray bullet shot them both down. Nyasia was killed in Brooklyn. Hadiya was killed in Chicago. These were two young girls. I met Nyasia's parents. They do not understand why their daughter had to die.

Right now, there is no Federal law preventing someone from loading up a truck in Georgia, driving it up I–95, and reselling those weapons in a parking lot in Brooklyn to a gang member or other dangerous people who aren't eligible to buy guns anywhere else. This amendment would change that. It would give our law enforcement the tools they need to get illegal guns off the street and to prosecute those who are trafficking guns.

The second amendment I would offer would require weapons dealers to keep physical inventories. This is something law enforcement has asked for. Without accurate inventory, it is impossible for law enforcement to know whether illegal gun sales are taking place or even if weapons have been stolen from that store.

There are just a small number—a very small number—of bad gun dealers, but our law enforcement officials have a right to be able to find out who they are, why they are selling these weapons out of the back of their gun sales places and then selling them directly to criminals who drive them up I–95 and sell them to gang members in Brooklyn or the Bronx or in Harlem or in Buffalo.

The third amendment is also a law enforcement amendment, something asked for by law enforcement. It would allow the ATF to ban foreign imports of military-style weapons, which tend to be used in crimes.

Right now, many weapons with military-style features not intended for hunting, including those with high-capacity magazines and laser sights, are being dumped into the U.S. marketplace by foreign arms manufacturers. This amendment would help prevent those dangerous, military-style weapons from flooding our streets and ending up in the hands of criminals.

No one in America should have to go through his or her daily life in fear of an angry, radicalized citizen who can easily buy a weapon of war and use it on innocent Americans. All of these amendments would help law enforcement do their jobs—be able to find criminals who are trafficking weapons, be able to find that small percentage of bad gun dealers and shut them down, and make sure foreign companies aren't flooding our market with illegal military weapons. These three changes would make a difference. They would help our law enforcement community keep our communities safe.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2016

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2578, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (H.R. 2578) making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2016, and for other purposes.

Pending:

Shelby/Mikulski amendment No. 4685, in the nature of a substitute.

McConnell (for McCain) amendment No. 4787 (to amendment No. 4685), to amend section 2709 of title 18, United States Code, to clarify that the Government may obtain a specified set of electronic communication transactional records under that section, and to make permanent the authority for individual terrorists to be treated as agents of foreign powers under the Foreign Intelligence Surveillance Act of 1978.

McConnell motion to recommit the bill to the Committee on Appropriations for a period of 14 days.

The PRESIDING OFFICER. The Senator from Utah, the President Pro Tempore.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to complete my remarks.

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

SOCIAL SECURITY TRUSTEES' REPORTS

Mr. HATCH. Mr. President, a few weeks ago I came to the floor to discuss the situation surrounding President Obama's nominees to serve as public trustees on the board of trustees for the various Social Security and Medicare trust funds. At that time, I noted that these nominations had become the center of a political firestorm. Sadly, that firestorm has continued in the weeks since I last spoke about this issue. While I have little desire to delve into what is a manufactured controversy, I do want to take some time to note how some events taking place this week should impact this particular debate.

Tomorrow, the Social Security and Medicare Boards of Trustees will release their annual reports, providing their assessment of the past, present, and projected future financial conditions of the trust funds. For decades, these reports have largely been devoid of politics, which is important because it allows policymakers and the general public to trust the numbers that are reported.

Currently, there are four senior Obama administration officials who serve as trustees on these various Boards. There are also two positions for public trustee—one from each party according to the law—that are currently vacant. While it is not unheard of for the Boards to issue their reports without confirmed public trustees in place, this administration has issued more trustees' reports with vacancies in the public trustee positions than any other administration.

In a recent article in the Huffington Post, Senators WARREN, SCHUMER, and WHITEHOUSE put forth some serious allegations of political tampering with recent Social Security trustees' reports, stemming, according to their arguments, from the supposed undue influence of one particular public trustee. That trustee, Dr. Charles Blahous, has been renominated by President Obama.

Specifically, these Senators alleged in their article that, due solely to the presence of this single public trustee on the Board, nefarious assumptions were somehow inserted into the trustees' report analysis, leading the report to overstate the financial challenges facing Social Security. My good friend, Senator SCHUMER of New York, echoed the very same allegations in a recent Finance Committee markup where we favorably reported President Obama's nominees for public trustee. And, I emphasize, these are President Obama's nominees.

In the words of these prominent and outspoken Senators, the 2014 Social Security trustees' report, ''curiously incorporated a number of assumptions playing up the potential of future insolvency of the program—a key talking point in the right-wing war on Social Security.'' Moreover, according to those Senators, the assumptions ''were so troublesome that the independent Chief Actuary for Social Security took the unprecedented step of writing a public statement of actuarial opinion disagreeing with the report.'' They go on to say that ''after similarly questionable elements appeared in the 2015

report, the Chief Actuary reported this extraordinary public rebuke.''

These assumptions—and Dr. Blahous's very presence on the Board—are, according to my colleagues, part of an effort funded and directed by the infamous Koch brothers to dismantle Social Security and further an anti-government agenda. In fact, their article was ridiculously titled ''The Koch Brothers Are Trying To Handpick Government Officials. We Have To Stop Them.''

These are serious allegations that call into question the integrity of the annual trustees' reports. Yet my colleagues have stated these allegations repeatedly in various forms, from committee hearings, to Twitter feeds, to campaign fundraising materials, all without any apparent regard for these implications. Worst of all, the charges are also patently false, and they cannot be supported by fact, reason, or even common sense.

Setting aside the almost paranoid and conspiratorial tone my colleagues have used when making these claims and even assuming, for the sake of argument, that supposedly questionable assumptions were baked into those trustees' reports, there is simply no remotely possible way that they were used solely because of Dr. Blahous's influence. Given the structure of these Boards, if a single public trustee were able to have such a pernicious influence on assumptions incorporated into reports that warranted some sort of alert from the Chief Actuary, then all of the other trustees—Treasury Secretary Lew, Labor Secretary Perez, Health and Human Services Secretary Burwell, Acting Commissioner of Social Security Colvin, the Democratic Public Trustee Robert Reischauer—and their staffs were either complicit in the perverse distortions or were too incompetent and powerless to detect them. Give me a break.

In other words, although they conveniently overlook these facts, when my colleagues publicly indict the integrity of the Social Security trustees' reports, they are implicitly and necessarily calling into question the competence and efficiency of senior members of President Obama's Cabinet and, really, that of President Obama himself, who renominated Dr. Blahous to serve a second term.

Of course, being honest about the makeup of the Board and the process by which these reports are compiled would make fundraising emails and campaign commercials, not to mention inflammatory entries on a Senator's Twitter feed, far less compelling. Recognizing this, my colleagues have opted to simply imply that Dr. Blahous—only one of the whole number of those on the Board—was solely responsible for allegedly questionable contents of the reports, apparently hoping no one will fact-check their assertions. I have to, as chairman of the Senate Finance Committee, fact-check these not so very honest assertions.

Sadly, no one from the Obama administration has stepped forward to defend the President's nominee and refute these wild claims. More curious, however, is the fact that no one from the administration has publicly come forth to defend themselves from these Senators' charges of apparent incompetence and powerlessness in the face of Dr. Blahous's dastardly influence. I think we need a clearer picture of what went on in the compiling of those reports.

In order to clear the air on this, I sent letters earlier today to the administration officials who sit on the Board to see if they agree with the claim that the reports they all willingly signed included some unwarranted assumptions designed to undermine Social Security and requesting that they provide me with a full briefing on the issue.

Of course, the absurdity of my various colleagues' claims goes beyond their implicit condemnation of members of President Obama's Cabinet because these senior officials were not the only line of defense standing between the report and the alleged conspiracy to take down Social Security.

If these reports included some pernicious assumptions, they not only slipped by the Secretaries of Treasury, Labor, and HHS, and the Acting Social Security Commissioner, they must also have had to slip the notice of 10 members of the 2015 Technical Panel on Assumptions and Methods, which was commissioned by the Social Security Advisory Board and contained many recognized and highly respected experts, including a Nobel Prize-winning economist.

In other words, the pernicious and allegedly billionaire-inspired assumptions that a single public trustee was somehow able to covertly insert into multiple trustees' reports in order to overstate Social Security's financial challenges were so cleverly advanced that they eluded prominent Obama administration officials, their staffs, 10 highly skilled, expert researchers, and the Social Security Advisory Board staff. That is ridiculous. And only the Chief Actuary was able to detect the skullduggery.

That is still not the end of it, however. The nonpartisan Congressional Budget Office, CBO, has also produced forecasts of Social Security's finances, using some assumptions that differ from those used by the trustees for their reports but which identify even greater financial challenges to the Social Security trust funds than those concluded in the recent trustees' reports.

According to Senators WARREN, SCHUMER, and WHITEHOUSE, Dr. Blahous, serving as an agent for the Kochs, was able to skew with nefarious assumptions as part of ''the right-wing war on Social Security'' to play up the potential future insolvency of the program. Even so, he apparently wasn't diabolical enough because he ended up duping the other trustees into assigning lesser financial challenges to Social Security than those seen by the CBO.

Of course, perhaps my colleagues believe that this anti-government conspiracy has somehow infiltrated CBO, as well. If that is the case, perhaps they should come forward and reveal to the public just how deep the rabbit hole goes.

Needless to say, none of this is sensible. It doesn't even pass the laugh test. And Dr. Blahous's influence on the trustees' reports isn't the only thing my colleagues have overstated in their writings, tweets, and campaign materials. They also dramatically overstate the ''rebukes'' issued by the Chief Actuary for the 2014 and 2015 reports. It is actually shameful for my colleagues to do this.

In truth, there actually were no rebukes or disagreements included in the actuary reports. In fact, for both years in question, the Chief Actuary wrote that ''the assumptions used and the resulting actuarial estimates are, individually and in the aggregate, reasonable for the purpose of evaluating the financial and actuarial status of the trust funds, taking into consideration the past experience and future expectations for the population, the economy, and the program.''

There were caveats which largely reflected the Chief Actuary's own opinions but nothing that would call into question the integrity of the reports as my colleagues claim. As I have said in the past, these tactics are, in my view, shameful, and they have little to do with protecting the promise of Social Security. Instead, they are 100 percent political, designed to serve as a proxy for what political operatives hope will be an epic campaign battle over Social Security, something the other side constantly wages falsely. And, as is too often the case, the truth has taken a backseat to campaign talking points and fundraising efforts.

Rather than engage on the substance of their preferred Social Security policies—and those of their presumptive Presidential nominee—my friends have opted to put forward false assertions and allegations that cannot be supported by the facts in order to attack a nominee's integrity and further a twisted story about supposed Republican efforts to ''privatize'' Social Security and ''turn it over to Wall Street.''

It is not hard to see why some of my friends on the other side and their political allies in the activist community want to construct this type of conspiracy with regard to Social Security. After all, in recent years, the only meaningful advancement to prolong the life of any Social Security trust fund took place last year under a Republican-controlled Congress. Last year, Republicans put together a bipartisan package to avert benefit cuts for disability beneficiaries. At best Democrats only reluctantly came on board. That package, which President Obama

signed into law, contained no ''privatization.'' The only thing close to a ''benefit cut'' was a provision on retirement benefits claiming strategies based on provisions put forward in President Obama's budget.

Yet, rather than help avert benefit cuts for disabled American workers and improve the disability insurance program, many of my friends on the other side spent most of their energy last year raising campaign money by scaring Social Security beneficiaries and giving speeches claiming that Republicans wanted to do nothing more than privatize Social Security and turn it over to Wall Street. We have been seeing those kind of tactics in every election for decades. It is shameful. Even with these constant attacks and distortions coming from my friends on the other side throughout 2015, Republicans constructed a package that enacted the most meaningful reforms to Social Security in three decades and averted massive benefit cuts. We did so by dragging most Democrats along kicking and screaming. It is not surprising that my colleagues are feeling the pressure to reassert their claims of ownership of all things Social Security in this election cycle, which they seem to do every election cycle—falsely, by the way. It is shameful.

By the way, in the midst of that 2015 debate, a prominent Democratic Senator gave a speech at the headquarters of a leftwing advocacy group—one that happens to receive funding from a noted leftist billionaire—warning of ''attacks from the far right'' on Social Security and ''backdoor attempts to dismantle and privatize Social Security by discrediting disability insurance.'' Curiously, that same event was attended by the Chief Actuary of Social Security, who was also a speaker at the event, and it was live tweeted by the Social Security Administration. Yet no one from the Republican Party published any inflammatory articles accusing the Chief Actuary of using his title or position in association with a politically partisan event. No one accused him of ''burnishing his credentials'' by speaking at a highly partisan event. Certainly, no one made claims of a vast leftist conspiracy to plant progressive sympathizers in influential positions in order to advance a leftist view on Social Security or to capture the agency.

By contrast, let's consider what that Huffington Post article and three of my Democratic colleagues said about Dr. Charles Blahous. The article claims that he ''burnishes his credentials'' as a public trustee by daring to write articles outside of his role as public trustee that identify and analyze financial challenges facing Social Security and Medicare. Gee, I would think that would be part of his responsibility. The article decries his affiliation with his own workplace, calling it ''a Koch front-group,'' which zealously approves an ''anti-government agenda.''

Essentially, these Senators are saying that if you dare have ideas and thoughts with which they disagree, even if you offer them in reasoned writings and speeches, then you should be censored and deemed unfit to serve in any public capacity.

My friends on the other side of the aisle have unfortunately injected needless politics into Social Security trustee reports and have threatened the integrity of those very reports with their allegations, as well as attacking an individual based on false claims. Unfortunately, it seems that in an election year, Democrats are intent on constructing a ''privatization'' straw man and using it to scare seniors into sending checks and votes to Democrats—something we have become pretty used to, really. That is despicable, to say the least. On the altar of election-year politics, they are apparently more than willing to sacrifice the historic transparency and integrity provided by the trustees' reports. Indeed, they have gone out of their way to claim that the reports are already politically compromised despite having no credible evidence that such is the case—none, zero.

Thanks to a bipartisan desire to have the facts on Social Security's trust funds reported objectively and honestly, we have gone for decades with trustee reports that were largely free of political controversy. Unfortunately, some of my friends in the Senate, spurred on by their activist political operatives, seem no longer to have that political desire. It would truly be sad and not in the interest of current or future Social Security beneficiaries if trustees' reports now become mere political documents. While that is the road my colleagues apparently want to send us down—at least during this election year—I plan to do all I can to ensure that will not become the case.

I am really concerned when I see people of this dimension in the greatest legislative body in the world using the Social Security ploy again in such a despicable way. It is hard for me to understand. I think it is hard for anybody who looks at it carefully to understand.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I have a question for the distinguished Senator from Utah.

What are the Senator's proposals to stabilize the Social Security trust fund?

Mr. HATCH. I am sorry; I did not hear the question.

Ms. MIKULSKI. Mr. President, the Senator from Utah said that we Democrats have politicized the debate.

Mr. HATCH. I didn't say all of you have.

Ms. MIKULSKI. No, but my friend did say that we have injected politics into the Social Security debate and then went on to talk about how others have written articles. I don't dispute what my friend said. But because he chairs the Finance Committee, I wondered what his five ideas are for the stabilization of the trust fund. Maybe we can find common ground because it is a troubling matter.

Mr. HATCH. Mr. President, I am willing to look at the trustees' reports on this. There are six trustees, including Mr. Blahous, who is the only Republican. I am not even sure if he is a Republican, but I think he is. They all signed off on these reports, and they all indicated we have to be careful about Social Security or we are going to have a rough time keeping it stable.

I don't think anybody in their right mind thinks that we can continue to keep doing what we are doing without finding some way of shoring this up.

Ms. MIKULSKI. Right. As the chair of the committee, my question is this: What are my friend's ideas so we can find common ground?

Mr. HATCH. Mr. President, my ideas are to not put out false information or false language.

Ms. MIKULSKI. OK, that is one we agree on.

Mr. HATCH. I have to say that our ideas are to find every way possible to stabilize the Social Security system.

Ms. MIKULSKI. What is an example of one?

Mr. HATCH. Who knows. All I can say is that we have held hearings on it, and we have had everything from more taxes to pay for it, which isn't very exciting to most people around here, to more government programs to pay for, to any number of other social programs to pay for, and, frankly, none of those have been picked up by either side, to be honest with you.

It is apparent that we are going to have to do something to shore up Social Security in the future, and the question is this: Are we going to just make it a sinkhole where all we do is put more and more money into it or are we going to live with the reality that we are spending ourselves blind in this country? I don't see any desire on the part of my colleagues on the other side to live with that reality right now.

Ms. MIKULSKI. Mr. President, I appreciate the response of the Senator from Utah, for whom I have a great deal of respect, but I want the record to show that the Democrats are not playing some kind of privatization card. The proposal to do that has come from the other party time and again.

Mr. HATCH. Mr. President, will the Senator yield on that?

Ms. MIKULSKI. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Ms. MIKULSKI. Mr. President, we are not playing a Social Security card. We don't believe you should play with Social Security, and that is why many of us opposed the chained CPI. Everybody knows what chained CPI is. That is Washington talk that would dramatically and irrevocably lower the cost of living that Social Security beneficiaries already get.

If speaking up to protect and make sure senior citizens are getting their

cost of living is playing the Social Security card, deal me in. Talking about Social Security solvency and trying to find common ground and identifying what are the basic proposals that we could at least discuss is not playing a card. I don't believe in playing the card, and I don't believe in playing the game.

Let's not go around implying that Democrats are somehow or another making Social Security a political football. It is a political football, but what I worry about is, in the game of political football on Social Security, who gets kicked around but the seniors. That is who gets kicked around in the game of political football on Social Security.

Yes, the stability of the trust fund is a very real issue, and I note that the ranking member on the Finance Committee is here, and I ask if the Senator wishes to speak.

Mr. HATCH. Mr. President, I would like to respond.

Ms. MIKULSKI. Mr. President, does Senator WYDEN wish to speak at this time?

Mr. WYDEN. Mr. President, I say to my colleague that I just walked in and I am prepared to speak on another subject, whenever it is convenient for my colleague.

The PRESIDING OFFICER. The Senator from Utah.

Ms. MIKULSKI. Mr. President, I haven't yielded the floor yet. I asked because the distinguished Senator from Utah is the chair of the Finance Committee. The ranking member has arrived, and I didn't know if they planned a colloquy. That is why I turned and asked my colleague if he wished to make a comment, but I was not giving up the floor.

The PRESIDING OFFICER. The Senator from Maryland is not permitted to yield, apparently, but is certainly permitted to speak.

Ms. MIKULSKI. Mr. President, I thank the Senator from Ohio, who is the Presiding Officer.

We have been in session for over a half-hour, and I have spoken for only 5 minutes. I just want to reiterate that the solvency of Social Security and its trust fund is indeed of significant national interest. We have had a variety of commissions. We have had a lot of proposals. We have had a lot of meetings. We now need to have the will to act, but the will to act goes in pinpointing solutions and not pointing a finger at someone because of the political party they belong to.

Mr. President, I am now going to yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I was just explaining that we just fixed the disability insurance fund last year. I wish to also point out that the last time I recall anybody talking about the privatization of Social Security was President Clinton. The last time I heard, he was a Democrat.

All I am saying is this: I don't know anybody on our side who is advocating right now that we should privatize Social Security. I think everybody is advocating that we should shore it up and somehow or another strengthen it. I am one of those people. Yet we have a number of Senators here alleging that one of the six trustees—it is so out of line to say that—has all the evidence to sign off on a report that Social Security needs some help, and they are saying that this man, who happens to be the only Republican on the board of trustees, is trying to push a privatization schedule. That is all I am bringing up. I can say that I have heard Democrats talk about privatization as well. It is one of the subjects that I suppose has to come up in conjunction with this: Are we going to save Social Security? Will we do what is necessary here? Are we just going to keep talking about it like we do year after year? Are we going to allow one side to continue to distort what Social Security is all about? And are we going to do it to the detriment of every Republican in this body who feels completely otherwise? That is what I am talking about.

I think most Democrats want to help secure Social Security, as I do, but to use that as a political ploy every time we turn around every 2 years is just plain not right. That is what I am decrying here today. We ought to all look and see what we can do to strengthen Social Security, and we ought to look at every possible way of doing so and choose the best approaches we possibly can. But to have false allegations thrown out there just for political reasons to scare the people out there who are on Social Security, unjustly scare them, I think is despicable, and I think we ought to put a stop to it and quit making Social Security the paddle ball for Democrats in our political process.

I am chairman of the Finance Committee. I have every desire to work with Democrats to resolve all of these issues, and I am open to whatever will help to resolve them. Our senior citizens deserve that type of treatment. I want to make sure we don't just make this a big political issue, as has been done here.

Blahous is a very important person, a strong personality, a strong, highly educated person who has given great service in this area. I just don't think it is proper to make him a symbol in what really is a false set of accusations. I am not going to put up with it, and I don't think anybody else should either. And I don't think my colleagues on the other side, if they really understand the situation, will put up with it either.

We have a body that works together in many good ways. I have total respect for the distinguished Senator from Maryland. She is somebody I do work with, whom I want to work with. She is thoughtful. She has done a great job on her committee—her committees, I should say—and she has a friend in me, and so do the three who have been doing this. They are friends, but they shouldn't be doing that. That is all I am saying.

I yield the floor.

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

AMENDMENT NO. 4787

Mr. WYDEN. Mr. President, I believe the next vote will take place on the amendment offered by the senior Senator from Arizona that would allow for the issuance of what are called national security letters, or NSLs, which are administrative subpoenas, and there will be an additional provision on what is called lone wolf. I am going to direct most of my comments for colleagues on the national security letters because the lone wolf provision was reauthorized for another 4 years as part of the USA FREEDOM Act.

I want colleagues to understand that this tool, which certainly has been debated, while never used—it wouldn't have applied to the Orlando or San Bernardino cases—I want colleagues to understand that it is the law of the land today, and in the USA FREEDOM Act, it was extended for another 4 years.

What I would like to do, though, is focus my remarks on the amendment from the senior Senator from Arizona as it relates to national security letters. In effect, what the senior Senator from Arizona is seeking to do is add back a provision that the administration of George W. Bush—not exactly an administration people would accuse of being soft on terror—the senior Senator from Arizona is seeking to add back this provision that was rejected by the administration of George W. Bush.

Here is how the amendment offered by the senior Senator from Arizona would work. Under his amendment, which we will vote on tomorrow, national security letters, which are called NSLs, could be issued by any FBI field office to demand records from a company without going to a judge or without any other oversight whatsoever. So let's repeat that because what colleagues have wanted to know is exactly what this would cover. The McCain amendment would allow for the government to demand email records, text message logs, Web browsing history, and certain types of other location information without any court oversight whatsoever.

As I have indicated, this had been on the books for a number of years, and the administration of George W. Bush said it was unnecessary—in effect, that it was unnecessarily intrusive.

In addition, since the Bush administration acted, I want to make mention of the fact that in the USA FREEDOM Act, the Congress adopted something I have been working on for a number of years—since really 2013—to, in effect, give the government additional authority in the case of emergencies.

In other words, I have always felt the Fourth Amendment and the warrant process was something that was very

special in our country, but we live, of course, in a very dangerous time. We are all concerned about the security and the safety and the well-being of the people we represent. So I said, in section 102 of the FREEDOM Act, let's make sure the FBI has all the authorities necessary to protect the American people in the instance of an emergency. So the USA FREEDOM Act gave the FBI the authority to demand all the records they deemed necessary and then, in effect, after the fact—after the fact—come back and settle up with the court. So unless you are opposed to court oversight after the fact, unless you are opposed to court oversight altogether, there is no reason to support the amendment offered by the senior Senator from Arizona.

A number of colleagues have also asked about the history of these national security letters. There is a long history of abuse and misuse, a long and very undistinguished record of abusive practices.

The Justice Department inspector general has issued four separate reports over the past few years—four separate reports—documenting a number of serious problems. The inspector general found that data collected pursuant to the national security letters was stored indefinitely and used to gain access to private information in cases that weren't relevant to an FBI investigation, and the national security letters were used to collect tens of thousands of records at a time.

Some have also made mention of the fact that a company that gets one of these national security letters could challenge it in court. That is technically right. Big companies that have the resources can challenge them. The small companies invariably say they can't afford to do that. So, again, no oversight. No oversight—particularly striking given the fact that, as I have noted, in the FREEDOM Act—something I felt very strongly about—we gave the government additional authority in the instance of emergencies.

So we have now, by virtue of the amendment we will vote on tomorrow from my friend and colleague—we certainly have agreed on plenty of issues over the years. This is one where we see it differently. You have something the Bush administration rejected. The administration of George W. Bush—hardly one that we would say is sympathetic to the idea of weakening the government's stance against terror—they thought this was a mistake. They thought the amendment that there will be an effort to add back in was a mistake, and it was taken out. This would not have beefed up the fight against what happened in San Bernardino and Orlando.

The FBI says it would help them with paperwork. I am not going to quibble with that. I have great respect for the FBI. But we are going to abandon court oversight in an area where the inspector general has documented abuses because it is convenient?

Colleagues, I will close with this: It is a dangerous time. If you sit on the Intelligence Committee, as I have for a number of years, you know that is not in question. The American people want policies that promote their security and their liberty. That is what we are aiming for. What is being advanced in this amendment is an idea that really doesn't do either. It doesn't advance the security and well-being of the American people, and it certainly erodes their liberties.

So I hope tomorrow, when we have the vote on this amendment, that colleagues will look at the history. It was rejected by the Bush administration. Now we have emergency authority, I say to my colleagues, for the government to get information when it needs it. After the fact, the government can come back and settle up.

I think this amendment is a very substantial mistake. There has been a long history documented by the inspector general of abuses with these national security letters. I urge my colleagues tomorrow to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, the White House approved the FBI's request for this fix and sent forward a proposal, and then FBI Director James Comey, who I think is well respected—in fact, probably one of the most respected men in America—summed up the importance of this amendment, the Director of the FBI. No one who I know of has accused the Director of the FBI of trying to adopt some unconstitutional practices or gather power upon himself and his agency. Here is what he said: This amendment ''would be enormously helpful.'' That is despite what the Senator from Oregon says. He said this is essentially ''a typo in the law that was passed a number of years ago that requires us to get records, ordinary transaction records that we can get in most contexts with a non-court order, because it doesn't involve content of any kind, to go to the FISA court to get a court order to get these records. Nobody intended that.'' That is what the Director of the FBI says. That is what the record shows, as is important. As the Director of the FBI says:

> Nobody intended that. Nobody I've heard thinks that's necessary. It would save us a tremendous amount of work hours if we could fix that, without any compromise to anyone's civil liberties or civil rights.

I agree with the Director of the FBI.

This amendment—I am astounded, very frankly, that there is not a unanimous vote on this. It is simple. If the FBI is able to go into your financial written records, if they are able to go into your telephone records, then, pray tell, what is the difference between those and electronic records? It just so happens electronic records are much larger.

So don't take my word for it, I say to my colleagues, but I would listen to the Federal Law Enforcement Officers Association—that renowned ''corrupt'' organization. The Federal Law Enforcement Officers Association—the Nation's largest nonpartisan professional association which represents Federal law enforcement officers from every Federal law enforcement agency, including the FBI—strongly supports this amendment.

They go on to say—again, contrary to what the Senator from Oregon says, the Federal Law Enforcement Officers Association says that this amendment ''would correct an oversight in the law that has impeded the FBI's ability to obtain these records in national security cases on a timely basis.'' They go on to say that ''for over fifteen years—including the eight years after 9/11—the FBI continued to use''—what they are talking about now is they want ''to gather electronic communications transactional records. Significantly, this authority was never used to acquire these records indiscriminantly.'' They go on to say that the amendment ''is necessary to protect America from terrorist threats and transnational criminal organizations.''

This is what those men and women—thousands of them are members of this organization. The list is incredibly long. The Federal law enforcement agencies believe this amendment is necessary to protect them and America from terrorist threats and transnational criminal organizations. It is clear.

Mr. President, I ask unanimous consent that the following letters of support be printed in the RECORD: the Federal Law Enforcement Officers Association letter, the National Fraternal Order of Police letter, and the Federal Bureau of Investigation Agents Association letter.

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

FEDERAL LAW ENFORCEMENT
OFFICERS ASSOCIATION,
Washington, DC, June 10, 2016.

Hon. CHARLES E. GRASSLEY,
Chairman, Judiciary Committee,
U.S. Senate, Washington, DC.
Hon. PATRICK J. LEAHY,
Ranking Member, Judiciary Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY AND RANKING MEMBER LEAHY: The Federal Law Enforcement Officers Association (FLEOA)—the nation's largest non-partisan professional association which represents federal law enforcement officers from every federal law enforcement agency, including the FBI—strongly supports Senator Cornyn's effort to address issues related to Electronic Communication Transactional Records (ECTRs) during the Senate Judiciary Committee's consideration of S. 356, the Electronic Communications Privacy Act Amendments Act of 2015. The amendment, referred to as the ''ECTR Fix,'' would update electronic privacy laws and would help the FBI effectively investigate and thwart terrorist plots.

The ECTR amendment would correct an oversight in the law that has impeded the FBI's ability to obtain these records in national security cases on a timely basis. In Counterterrorism and counterintelligence

investigations, telephone toll records and electronic communications transactional records are key components. It's important to distinguish that these electronic communications are metadata, not content. Section 2709 of Title 18 permits the FBI to collect this data with a national security letter so long as the information is ''relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities.'' The metadata from these records are critical when the content of terrorist communications are increasingly beyond the reach of lawful process because of the widespread deployment of strong encryption software.

As originally enacted, Section 2709(a) established a duty for wire and electronic service providers to comply with an FBI request for ''subscriber information and toll billing records information, or electronic communications transactional records,'' and subsection (b) provided the means by which the FBI could make such requests. Section 2709(b), however, did not specify the information that the FBI could request. Instead, it referenced ''any such information and records'' as described in subsection (a).

Congress amended Section 2709(b) in 1993 to specify that the ''subscriber information'' that a certification could request consisted of ''name, address, length of service, and toll billing records.'' No changes were made to the authority to obtain electronic communications transactional records. However, while Section 2709(a) still required production of electronic communications transactional records, removal of the phrase ''any such information and records'' left subsection (b) without any specific reference to the electronic communications transactional records referenced in subsection (a). Nonetheless, Congress clearly intended Section 2709 to continue to serve as a means of obtaining electronic communications transactional records, as subsection (a) continued to refer to a duty to produce such records on request, and the title of the provision continued to reference ''transactional records.''

For over fifteen years—including the eight years after 9/11—the FBI continued to use Section 2709 to gather electronic communications transactional records. Significantly, this authority was never used to acquire these records indiscriminately or in bulk. However, the recently-passed USA FREEDOM Act specifically prohibits doing so. In 2009, however, some electronic communications service providers began refusing to comply with these requests, citing the scrivener's error referenced above. The number of providers refusing to do so has increased over the years. In certain cases, the FBI has sought the records using other authorities, but those authorities take significantly more time and resources than using Section 2709.

This section of the bill would amend Section 2709 to reflect the original intent of Congress by clarifying the types of ''telephone toll and transactional records'' that the FBI used it to obtain for many years, while explicitly prohibiting the collection of communications content.

In December 2015, FBI Director James Comey summed up the critical importance of the ETCR amendment when he testified before the Senate Judiciary Committee. He said, clarifying this authority ''would be enormously helpful. There is essentially a typo in the law that was passed a number of years ago that requires us to get records, ordinary transaction records that we can get in most contexts with a non-court order, because it doesn't involve content of any kind, to go to the FISA court to get a court order to get these records. Nobody intended that. Nobody I've heard thinks that that's necessary. It would save us a tremendous amount of work hours if we could fix that, without any compromise to anyone's civil liberties or civil rights.''

The ECTR amendment is necessary to protect America from terrorist threats and transnational criminal organizations. I strongly urge you to consider adopting the ETCR Fix as part of S. 356 the Electronic Communications Privacy Act Amendments Act.

Respectively,

NATHAN R. CATURA,
FLEOA National President.

NATIONAL FRATERNAL
ORDER OF POLICE,
Washington, DC, June 21, 2016.

Hon. MITCH MCCONNELL,
Majority Leader,
U.S. Senate, Washington, DC.
Hon. HARRY M. REID,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS MCCONNELL AND REID, I am writing on behalf of the members of the Fraternal Order of Police to advise you of our support for S. Amdt. 4787 which will be offered to amend H.R. 2578, the ''Commerce, Justice, Science, and Related Agencies Appropriations Act, 2016.''

The amendment will provide Federal law enforcement with the tools they need to investigate and prevent terrorist attacks by clarifying Section 2709 of Title 18 with respect to Electronic Communication Transactional Records (ECTRs). Under this statute, Federal law enforcement authorities have been able to request and then collect metadata, not content, from service providers as long as they have a national security letter and the data request is ''relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities.'' However, despite 15 years of regular cooperation, recent requests made to some service providers have been rejected and these companies have cited ambiguity in the existing statute.

The amendment would make clear Congressional intent that such requests do not allow access to any content but that name, email, Internet Protocol (IP) and physical addresses, telephone me/instrument number, account number, login history, length and type of service as well as the means by which the service is paid for be made available to law enforcement. This meta data can be crucial in counterterrorism and counterintelligence investigations. The FOP believes the amendment merely clarifies the existing statute and does not give law enforcement any new authorities or access to data previously unavailable to them. In fact, the recent resistance to such requests was described to the Committee on the Judiciary as ''essentially a typo'' and the amendment better defines Congressional intent with respect to ''telephone toll and transactional records.''

I urge you and the Members of the United States Senate to support S. Amdt. 4787 to ensure the timeliness and effectiveness of our nation's counterterror and counterintelligence operations. Our nation's security and defense should not be held hostage or investigations jeopardized because of a ''typo.''

Thank you as always for your consideration of the views of the more than 330,000 members of the Fraternal Order of Police. If I can provide any additional information on this or any other issue, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington, D.C. office.

Sincerely,

CHUCK CANTERBURY,
National President.

FEDERAL BUREAU OF INVESTIGATION,
AGENTS ASSOCIATION,
Alexandria, VA, June 8, 2016.

Re: Electronic Communication Transactional Records.

Hon. CHARLES E. GRASSLEY,
Chairman, Senate Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. PATRICK J. LEAHY,
Ranking Member, Senate Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY AND RANKING MEMBER LEAHY: On behalf of the FBI Agents Association (''FBIAA''), a voluntary professional association currently representing over 13,000 active duty and retired FBI Special Agents, I write to express our support for addressing issues related to Electronic Communication Transactional Records (''ECTRs'') during the Senate Judiciary Committee's consideration of S. 356, the Electronic Communications Privacy Act Amendments Act of 2015. The relevant amendment, referred to as the ''ECTR Fix,'' would be wholly consistent with the effort to update electronic privacy laws, and would help the FBI more effectively investigate and thwart terrorist plots.

Notwithstanding the well-funded efforts by technology companies and activists to misrepresent the ECTR Fix, the truth is that clarifying the language of §2709 would strike a familiar and effective balance between privacy and security. ECTRs provide information abut the IP addresses, routing, and sessions times for electronic communications, and electronic service providers have complied with FBI requests for ECTRs pursuant to §2709 for years. This cooperation furthered the protection of the public, as ECTRs are used to identify patterns of communications in the course of national security and terrorism investigations. At the same time, access to ECTRs does not represent a threat to the privacy identify patterns of communications in the course of national security and terrorism investigations. At the same time, access to ECTRs does not represent a threat to the privacy of Americans because the FBI can only request ECTRs for a limited scope of investigations, and because ECTRs do not include detailed information about the specific web pages visited by internet users or the content of web pages or electronic communications.

Despite these facts, and as a part of their privacy-focused marketing strategies, technology companies recently began refusing to cooperate with the FBI on ECTR requests, and have pointed to statutory ambiguity as a justification for their actions. This choice has undermined national security and counterterrorism investigations, and necessitates Congressional action.

Given the importance of protecting the public from terrorist threats, we support an amendment to include the ECTR Fix in S. 356, as well as the efforts to address the issue through other legislative vehicles. We hope that Congress will make these reasonable and common-sense changes in a timely manner.

If you have any questions, please contact me at *rtariche@fbiaa.org* or 703–247–2173, or FBIAA General Counsel Dee Martin, *dee.martin@bracewelllaw.com*, and Joshua Zive, *joshua.zive@bracewelllaw.com*.

Sincerely,

REYNALDO TARICHE,
President.

Mr. MCCAIN. I will go on.

The Federal Bureau of Investigation Agents Association says that it is a voluntary professional association currently representing over 13,000 active-duty and retired FBI special agents.

Here are 13,000 FBI agents, active and retired, who believe this amendment is essential for them to be able to do their job and protect America.

By the way—hello—we just had an attack in Orlando where 49 Americans were slaughtered, and we are arguing whether we should allow the FBI to find out not the information in electronic communications, but just find out about electronic communications. That is what this is about.

I will quote from the 13,000 active-duty and retired FBI special agents:

I write to express our support for addressing issues related to Electronic Communication Transactional Records (''ECTRs''). . . . The relevant amendment, referred to as the ''ECTR Fix,'' would be wholly consistent with the effort to update electronic privacy laws, and would help the FBI more effectively investigate and thwart terrorist plots.

After Orlando, do we want to help the FBI more effectively investigate and thwart terrorist plots or do we want to restrict their ability to do so? Is that what the Senator from Oregon wants? I don't think so.

Notwithstanding the well-funded efforts by technology companies and activists to misrepresent the ECTR Fix, the truth is that clarifying the language [of subsection 2709] would strike a familiar and effective balance between privacy and security. ECTRs provide information about the IP addresses, routing, and sessions times for electronic communications, and electronic service providers have complied with FBI requests . . . for years. . . . Given the importance of protecting the public from terrorist threats, we support an amendment to include the ECTR Fix . . . as well as the efforts to address the issue through other legislative vehicles. We hope that Congress will make these reasonable and common-sense changes in a timely manner.

It is signed by Reynaldo Tariche, the president of the Federal Bureau of Investigation Agents Association.

So we have a choice here. We have a choice here. We have those who are so worried about privacy and those whose job and whose solemn duty is to protect this Nation—Federal law enforcement officers, the FBI, 13,000 of the FBI agents, and then, of course, we have those who are under assault on a daily basis—our police.

This is a letter from the Fraternal Order of Police ''writing on behalf of the members of the Fraternal Order of Police to advise you of our support'' for this amendment which will be offered. ''The amendment will provide Federal law enforcement with the tools they need to investigate and prevent terrorist attacks.'' It isn't any more complicated than that.

My remarks probably will be a little longer.

The Fraternal Order of Police has it right. This will provide an ability to prevent and counter further terrorist attacks.

How many attacks do we need? I would ask my colleagues who are opposed to this simple amendment, how many attacks? Another San Bernardino? Another Orlando? Two or three more attacks before we give the Director of the FBI the tools he says he needs and wants to protect this Nation? That is what this is all about.

The Fraternal Order of Police goes on to say that ''the amendment would make clear Congressional intent that such requests do not allow access to any content but that name, email, Internet Protocol (IP) and physical addresses, telephone/instrument number, account number, login history, length and type of service as well as the means by which the service is paid for be made available to law enforcement.''

The Senator from Oregon, if I got his remarks right, says: Well, there has been corruption of it. There has been abuse. There has been misapplication.

One of our jobs is oversight, if that is happening. But I also would say that is a damning indictment of these men and women who are putting their lives on the line every single day and are begging for this tool to defend this Nation.

The Fraternal Order of Police says:

I urge you and the Members of the United States Senate to support [the amendment] to ensure the timeliness and effectiveness of our nation's counterterror and counterintelligence operations. Our nation's security and defense should not be held hostage or investigations jeopardized because of a ''typo.''

Thank you as always for your consideration of the views of the more than 330,000 members of the Fraternal Order of Police.

These are the views of more than 330,000 members of the Fraternal Order of Police. I think maybe we ought to listen to the will of 330,000 men and women who are out there every day defending this Nation. Maybe we ought to listen to them. Maybe they are the ones whose lives are in danger. They are the ones who are the first targets of the terrorists. Maybe we ought to listen to their views rather than some misguided view that somehow this invades our privacy, to find out simply whether an address has been used and for how long—not content. If content is involved, that requires going to the FISA Court.

Last week the Director of the CIA appeared before a rare open session of the Senate Intelligence Committee to deliver a stern warning to the American people: ISIL has built a global apparatus with the intent to plot and incite attacks against the West. He explained that despite our 2-year air campaign in Iraq and Syria and despite our efforts to build and fight with local forces and despite the best work of our special operators, ISIL and other terrorist groups continue to evolve and plan to kill innocent Americans who reject their hateful ideology.

That is the warning of the Director of the CIA. The CIA's warning obviously comes after the attack. It is remarkable. The CIA's notice about ISIL's continued strength followed years of warnings by the Director of the FBI and others in law enforcement who have explained to policymakers time and time again that the use of advanced technologies by our enemies is making it increasingly difficult for law enforcement to uncover and stop attacks. That is their view.

We give these people the responsibility to defend this Nation, particularly against these attacks, and they are telling us they can't adequately defend against these attacks because of a provision we have that they can't even look at the fact that a site was used.

By the way, if the Senator from Oregon and others believe this is an invasion of privacy, then why don't they propose an amendment that telephone and financial records should also be in that same category? Of course, that has the problem of being consistent.

The law allows the FBI to request telephone billing information, financial transaction records, but terrorists don't radicalize by phone and they don't listen to ISIL propaganda through financial transactions. They radicalize through the Internet. I repeat: They radicalize through the Internet. So if they are radicalizing through the Internet, shouldn't we gain as much possible information as we can by monitoring their use of the Internet?

Reports indicate that in 2013 the Orlando terrorist was removed from a terrorist watch list because there was insufficient information showing he was radicalized and therefore a threat. Perhaps—and I emphasize ''perhaps''—if the FBI had more effective authorities that would allow them to more easily determine Internet activity of those suspected of radicalization, he would have remained, perhaps, on the watch list. Currently, the FBI can only receive electronic transactional records information by going through the FISA Court process, which is a time-intensive court process that often takes over a month. With the thousands of potentially radicalized individuals already in the United States, we need to make it easier, not harder, for the FBI to receive the critical evidence they need so they can focus their investigations.

Let me state again clearly for the benefit of my colleagues what this provision does not do. It does not allow the FBI to see the content of emails or conversations in Internet chat rooms. As I said before, this provision is narrowly drawn and carefully limited.

The administration, Congress, and national security experts from both sides of the aisle have spoken repeatedly about taking on ISIL's Internet radicalism. This provision, according to the Director of the FBI, is a most important tool to give the FBI valuable data points to do just that.

We face a threat from individuals who have been radicalized by the words, actions, and ideology of terrorist groups. These individuals may act alone, without clear direction from terrorist groups, but they fulfill the intent and desire of these groups.

We must ensure that our law enforcement authorities keep pace with the tactics and methods of our adversaries. If our adversaries seek to attack us by inciting lone-wolf violence, we have to

make sure law enforcement has the authorities they need to investigate and, we hope, stop those attacks.

Our intelligence and law enforcement officers are the best in the world, but as terrorist networks grow and metastasize around the world, we ask them to bear an increasingly difficult—some even say impossible—burden. We ask them to uncover threats by individuals who are hidden among millions of law-abiding citizens. We ask them to determine which of us has been inspired by evil to do harm to our fellow citizens, and we ask that they do this difficult task with little or no impact on anyone's privacy. We have to recognize this threat for what it is.

As our enemy evolves, so, too, we must evolve and strengthen our counterterrorism tools and authorities. Let's stop tying the hands of those who wish only to keep us safe and on many occasions are ready to make themselves unsafe in order to protect our fellow citizens.

I guess my colleagues are presented with a choice. As the Senator from Oregon, with great skill and oratorical tools, will talk about rights of privacy, will talk about constitutional protections, all of those things—this is simple. This is a simple amendment. It has nothing to do with going into these sites and finding out information. That requires going to court.

All it does is tell the FBI, whose Director has pled for this capability—does anyone assume the Director of the FBI wants to act in an unconstitutional fashion? Of course not. But you must accept the fact that it is his responsibility to protect the Nation and, therefore, when he asks for the tools to protect this Nation, then maybe we ought to pay attention and give them to him. I know of no one who is an objective observer who believes it would be unconstitutional to adopt this amendment.

I don't know about abuses in the past that the Senator from Oregon says have taken place. I know abuses have taken place in the past on almost any aspect of American life. But I also know that when you have all of our police—330,000 of them, representing them—13,000 in the Federal Bureau of Investigation, Federal law enforcement agencies from all over America—the list is incredibly long—all asking for the ability to defend this Nation, by God, I think we should give it to them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, the senior Senator from Arizona—whom, as I mentioned, I have worked with often—has said, in effect, if you oppose his amendment, you are interested in privacy.

The reality is, my interest is in privacy and security. I believe it is possible to have both, and I want to explain how that is the case.

Something I worked on for a long time, the USA FREEDOM Act, we included section 102. Section 102 very explicitly said that if the government—if the FBI, in a situation like Orlando or San Bernardino, for example—if the government believed it needed information immediately—immediately—the government could get the information and then go back to the court after the fact. In effect, after the government had been able to get the information of its own volition, settle up immediately so as to protect the American people.

This debate is about are we going to have policies that advance both our security and our liberty. I have felt very strongly—I see my seatmate, the distinguished ranking member of the Appropriations Committee. We sit next to each other on the Intelligence Committee. We talk about these issues very often. As part of the USA FREEDOM Act, I pushed very hard to make sure the government had those emergency authorities.

This is a dangerous time. Nobody disputes that. If you have been on the Intelligence Committee, as Senator MIKULSKI and I have been for so many years, that is not in question. This is a dangerous time.

No. 1, the question is, Are we going to have both security and liberty? In my view, that is where the amendment from the senior Senator from Arizona comes up short.

No. 2, the Senator from Arizona has said the problem he seeks to correct was just a typo, kind of a clerical error—not even close.

The debate back in 1993—we have the record, the House, the Senate, the FBI. It was very carefully crafted in a way to ensure that there would not be abuse in the digital area. When you look at that specifically, that is very clear. This was not a typo. This was carefully crafted—House, Senate, FBI—in 1993.

When my friend from Arizona says it was a typo—not even close. I hope colleagues will avail themselves of our offer to look at the record.

Right now, nobody from the government, the FBI, has said, if it had the power the Senator from Arizona seeks to give the government—nobody in the intelligence field or in the government said it would have prevented Orlando.

The fact is, the government has the authority, the emergency authority, and it was something I pushed very hard for. It was right at the core of my belief that we ought to be pushing for both security and liberty at a dangerous time and that the two are not mutually exclusive. So we added to the USA FREEDOM Act that emergency authority for the government.

It is also true, the administration of George W. Bush specifically rejected the idea the Senator from Arizona is calling for. They specifically said this has created problems. There have been four separate inspector general analyses that support that.

As we continue this discussion, I hope colleagues will see that we ought to keep the focus on both security and liberty. That is why the emergency authorities we got in the USA FREEDOM Act are so important. They are intact. They can be used for any situation—Orlando, San Bernardino, any other—that the government, the FBI, feels the security and safety of the American people are at stake.

With respect to the lone-wolf provision, which I heard my colleague mention, we reauthorized that for 4 years in the USA FREEDOM Act. I supported that as well.

I just hope colleagues will think through the implications of the amendment from the Senator from Arizona because under what he is talking about, a national security letter, what is called an NSL, can be issued by any FBI field office to demand records from a company without going to a judge. To support this, in effect, you basically are saying you don't support oversight, you don't support court oversight, because we have given the court and the government the ability to move quickly.

I hope tomorrow we don't conclude that the FBI ought to be able to demand email records, text message logs, Web-browsing history, and certain types of information without court oversight.

The Senator from Arizona said: Well, you are not going to get all the content of those emails.

That is true, but the fact is, in a lot of instances, when you know who emailed whom, you know a whole lot about that person. If somebody emailed the psychiatrist four times in 48 hours, you know a whole lot about the person. You don't have to see all of the content of the emails.

Colleagues, we will discuss this some more, but I hope Senators will see this is about ensuring there is both security and liberty. The government has not said or intimated that if they had the power the Senator from Arizona seeks to put back—that the Bush administration rejected—the government has not said or intimated this would have prevented the horrific tragedy in Orlando.

I hope my colleagues will oppose the McCain amendment tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, we have heard a spirited debate between two distinguished Senators, two distinguished Americans, who are very passionate about defending America, and I know there will be more debate on this.

The Senator from Arizona and those who cosponsor his amendment want to add more authority to the FBI.

I rise to say that in the next day, when there is an opportunity to offer another amendment, I will be offering another amendment to give the FBI more money to do the job with the authority it does have. Working on a bipartisan basis, the distinguished Senator from Alabama and I tried to produce a very good bill to fund the Justice Department, one of which is the FBI.

We did do a good job, there is no doubt about it, but we operated within the budget caps. Within that, we did the best we could, but there is no doubt that the FBI could use more resources to be able to enhance its counterterrorism efforts and also increase its surveillance by tracking the terrorist threats.

So when the opportunity arises, I will be offering an amendment that gives more money to the FBI, that also gives more money—working with the Senator from Wisconsin, Ms. BALDWIN—to deal with hate crimes, one of the other significant issues here. Also, while we are talking about, again, the more authority issue, this amendment would include a section by Senator LEAHY, the vice chair of the Judiciary Committee, that would have tough penalties for those who knowingly transfer or receive a firearm or know or have reasonable cause to believe it will be used to commit a crime of terrorism, violence, or drug trafficking. It will reduce the threat.

We can debate all we want about more authority for the FBI. I think it is a good debate, the tension between security and civil liberties. The distinguished Presiding Officer is also a member—an active, diligent member—of the Intelligence Committee.

These are not easy issues, but my amendment should be an easy issue. My amendment would add $175 million dedicated to the FBI's counterterrorism efforts that would raise funding for the FBI above what the House suggested. It would strengthen the FBI's counterterrorism workforce. The FBI would be able to restore—remember, not add—restore more than 350 positions, including 225 special agents for critical FBI investigations related to counterterrorism and counterintelligence. It would also give the FBI new tools to be able to go where these bad guys have access to new technology and new ways of avoiding detection.

The number of terrorism threats disrupted by the FBI grew from 214 in fiscal year 2014 to 440 in fiscal year 2015. In one fiscal year, it actually doubled. As the threat goes, the FBI needs increased resources to hire and sustain the agents and intelligence analysts who interrupt these plots.

Again, while we are talking more authority—and that debate will go on—I am saying, if you are going to give them more authority, and whether you are giving them more authority, the FBI is stretched thin.

We did the best we could under the budget caps, but my amendment would be emergency funding. We don't look for offsets in order to take from one important Department of Justice function to give to the FBI or take from other Federal law enforcement to give to the FBI, or take from local law enforcement to give to the FBI. And it would be a tremendous boost.

It would also boost the FBI's surveillance capabilities and add critical personnel, including special agents. Additional funds would be provided for 36 new positions, 18 fully dedicated to tracking terrorist threats, and it would certainly help to gather evidence on high, high priority targets.

Again, while we are working at more authority, please, regardless of where you are on the lone-wolf debate, the Mikulski amendment offers the opportunity to add more funding.

Mr. WYDEN. Will my colleague yield for a question?

Ms. MIKULSKI. Certainly, to the Senator from Oregon.

Mr. WYDEN. I appreciate my colleague yielding, and I am a very, very strong supporter of her amendment because I think the idea of adding more resources is absolutely essential.

As I look at these cases—and she and I have talked about this on the Select Committee on Intelligence—we know that the workforce is aging in the intelligence community. We are going to need more dollars for the personnel we are going to need and certainly a lot of resources in a variety of areas. Is that my colleague's intention, to make sure we get the resources to, in effect, get out in front of these upcoming threats?

Ms. MIKULSKI. The Senator has identified my rationale and its actual underpinnings in a most accurate and precise way.

You see, I am from the school of thought—along with, I know, the ranking member of the Committee on Armed Services, also a member of the Committee on Appropriations—that the defense of the Nation and the protection of its people doesn't rely only on the Department of Defense. There are also other muscular ways of protecting it, some of which are, first of all, response and surveillance and so on in existing, constitutionally allowed authorities and giving more money to the FBI to operate under the law as we have currently defined it.

But you know what, we need to do prevention. Prevention really comes from the kind of intervention that would occur with the State Department—again, a tool of diplomacy. And what they have is a whole effort underway to deal with the recruitment and radicalization of Islamic jihadist terrorists on the Internet. Well, we have to support that. When they were going for more money for defense, we made that argument. But I am not going to relitigate old arguments.

We have before us Orlando. We have before us those who want to curtail the terrorist threat. I want to curtail that terrorist threat. And some of the ways I want to do it are, No. 1, add more money for the FBI; No. 2, join with our colleague from Wisconsin, Senator TAMMY BALDWIN, in adding more money to deal with hate crimes—hate crimes—because often those are the aegis and the incubator and so on of future violence; and the other is to close the loophole to keep guns out of the hands of terrorists, violent criminals, and traffickers that our distinguished ranking member of the Judiciary Committee mentioned.

Mr. WYDEN. If my colleague will continue to yield, just briefly, what my colleague has stated—and I strongly agree with—is that she is trying to assure that the resources are there for the future.

I am not going to drag my colleague into the earlier discussion, but what I am concerned about, and have been, is that the Senator from Arizona is relitigating the past. In effect, when the Bush administration took away the power because it was too intrusive, he wanted to go back to it.

But apropos of my colleague, isn't that the heart of her case—that she is looking to the future—FBI resources, resources to deal with hate crimes, resources to deal with prevention? It seems to me she is trying to lay out a plan for the future.

Ms. MIKULSKI. The Senator from Oregon is absolutely correct. This would be funding that would begin October 1. Given no cute tricks around shutdown and slam-down politics as we go into the fall—that we could actually move our appropriations—this would provide money starting October 1 with these additional resources to help the FBI be more effective than what it is, and also to help our Justice Department be even more effective than what it is in fighting hate crimes.

I will be discussing my amendment in even more detail, but I know there are other colleagues on the floor, and I now yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

UNANIMOUS CONSENT REQUEST—S. 2328

Mr. MENENDEZ. Mr. President, I have come to the floor once again, as I have time and again, with a simple message. For Puerto Rico, time is of the essence. For the 3½ million United States citizens who live there, time is of the essence, but getting it right is also of the essence.

There are only 8 business days left until Puerto Rico defaults on approximately $2 billion in debt. Congress needs to act immediately to prevent this fiscal crisis from becoming a full-blown humanitarian catastrophe. And while the House has attempted to address this issue by passing a legislative proposal called PROMESA—''promesa'' in Spanish means ''promise''—it lacks the promise that really would help 3½ million U.S. citizens in Puerto Rico.

There are Members on both sides of the aisle who believe the bill is fundamentally flawed. So instead of simply rubberstamping an inferior solution, the Senate needs to follow the Founding Fathers' intent and thoroughly debate this critical issue, which will have such a profound impact on so many Americans. I would note that calls for a thorough debate on the Senate floor are bipartisan in nature, and I thank my colleague Senator WICKER for joining me in a letter to the leadership asking for a full and open process to consider this bill.

I would remind my colleagues that each one of us was elected to this very

Chamber to debate and enact legislation to improve the lives of Americans. But I fear that, instead of a robust debate and thoughtful consideration of amendments to improve this bill, those who wish to see the House bill signed into law as drafted are going to delay and delay and delay until the last possible minute. Just as they did today, they are going to prevent us from debating this until next week, and then they will tell us it is too late to make any improvements to this bill. As a matter of fact, every article I have read suggests that is exactly the tactic which is being pursued.

I come to the floor because it is not a new or novel tactic to quell dissent with the threat of a deadline, but just because it has been done before doesn't make it right. How can we as Senators shirk our responsibility when the people of Puerto Rico are at the edge of an abyss? They need our help, and they need it today. The bill will affect a generation of Puerto Ricans, and we owe it to them and their brothers and sisters who live in our States—half a million in my State of New Jersey, 5 million throughout the country—to get this right.

Let me once again remind every one of my colleagues how deeply flawed this legislation is. First, the fate of 3½ million American citizens will be determined by 7 unelected, unaccountable members of a so-called oversight board that will act as a virtual oligarchy and impose their unchecked will on the 3½ million U.S. citizens on the island of Puerto Rico.

As the nonpartisan Congressional Budget Office states:

The board would have broad sovereign powers—

Sovereign words have meaning—

to effectively overrule decisions by Puerto Rico's legislature, governor and other public authorities. . . . [It] can effectively nullify any new laws or policies—

Any new law or policy—

adopted by Puerto Rico that did not conform to requirements specified in this bill.

So the elected representatives of the 3½ million U.S. citizens on the island of Puerto Rico just don't get listened to. They can have their decisions overruled by a nonelected board, for which there is no guarantee there will be any representation by those who are elected to recommend to this board anyone to be placed on it.

Even the bill's own author noted in the Interior Committee's report:

The Oversight Board may impose mandatory cuts on Puerto Rico's government and instrumentalities—

Mandatory cuts—

a power far beyond that exercised by the Control Board established for the District of Columbia.

If the board, in its sole discretion—and those words have enormous meaning. If my colleagues take the time to read the bill, as I have twice, fully, from the beginning to the end, 29 times the bill says that the board, in its sole discretion—not the Congress's discretion, not the bankruptcy court, not the Legislature of Puerto Rico, not the Governor of Puerto Rico—no, the board, in its own sole discretion—29 times. If the board uses the superpower this bill allows it to have to close more schools, shutter more hospitals, cut senior citizens' pensions to the bone; if it decides to hold a fire sale and put Puerto Rico's natural wonders on the auction block to the highest bidder; if it puts balanced budgets ahead of the health, safety, and well-being of children and families—similar to how the control board travesty unfolded in Flint, MI—without their voices represented on the control board, there is nothing—nothing—the people of Puerto Rico will be able to do.

Think about this. How many in this legislative body would allow such a board to take control over their State, no matter what their economic woes? The people on the island deserve a transparent oversight board where their voices and concerns are heard, not muted, and where the deals made with creditors are in the best interests of the people, not just hedge funds. The fact that the Puerto Rican people will have absolutely no say over who is appointed or what action they decide to take is blatant—blatant—neocolonialism.

Second, I have said this before and I will say it again: Any solution needs a clear path to restructuring. That is the only reason to do this legislation anyhow—to give Puerto Rico a clear path to restructuring in the bankruptcy court under the edicts of the bankruptcy law. The unelected control board created in this bill will have the authority to decide whether Puerto Rico's debts are worthy of restructuring.

Let's not fool ourselves into believing it is a sure thing that this bill guarantees the island the ability to restructure its debts in the first place. Instead, it would take a supermajority of this 7-member board—a 5-to-2 vote—in order for any of the island's debts to be restructured. What does that mean? It means that three people—a minority of the board—could derail the island's attempts to achieve sustainable debt payments. Without any authority to restructure its debt, all this legislation will do is take away the democratic rights of 3½ million Americans and leave the future to wishful thinking and a prayer the crisis will somehow be resolved.

I am afraid we are opening the floodgates for Puerto Rico to become a laboratory for rightwing economic policies. Puerto Rico deserves much more than to be the unwilling host of untested experiments in austerity.

I am not advocating to completely remove all oversight power. To the contrary, I support helping Puerto Rico make informed, prudent decisions and put it on the path to economic growth and solvency. But despite its name, the oversight Board envisioned by this bill doesn't simply oversee. It directs, and it commands. It doesn't assist; it controls. The Senate has an opportunity to change that situation. We have a chance to improve this bill and strike the right balance.

Now, I would like to have the opportunity—and I welcome others as well—to offer a number of targeted, commonsense amendments to restore a proper balance and ensure the people of Puerto Rico have a say in their future. By the way, since they are going to have to live with the tough consequences that are coming, no matter what, it is always better when stakeholders are engaged in the process and have a say about their future. This tempers the powers of the control board and gives the people of Puerto Rico more of a say in who is on the board. I encourage my colleagues to do the same—to offer amendments they feel will improve the bill. I know, as all of us know, that success is never guaranteed, but at the very least, the people of Puerto Rico deserve a thorough and thoughtful debate on the Senate floor.

I do not take lightly, nor should my colleagues, a decision to infringe upon the democratic rights of the people of Puerto Rico. The 3.5 million American citizens living in Puerto Rico, and 5 million family members living in our States and in our districts—in New Jersey, New York, Florida, Pennsylvania, Ohio, and Connecticut, just to name a few—deserve more than the Senate's holding its nose to approve an inferior solution.

So I hope the majority leader stands true to his word when he said we ''need to open up the legislative process in a way that allows more amendments from both sides''—well, both sides are calling for amendments to this bill—and allows us to call this bill up for debate so we can do what we were elected to do—fix problems and make the lives of the American people better—and do what the Senate, as an institution, should do, particularly as viewed by the Founding Fathers; that is, to take the passions of the moment, to think about it, morally and logically, and at the end of the day hopefully to refine and make proposals much better.

There is no reason that this has to wait until next week, on the verge of the Fourth of July recess. But I will say this. I want to give my colleagues notice now that I am not ready to rush to celebrate independence and create a situation of colonialism for 3.5 million of my fellow citizens. I hope we will get an early opportunity to debate this bill, offer amendments, and we will see how it falls then.

Mr. President, in view of that desire, I ask unanimous consent to lay before the Senate the House message on S. 2328; that the motion to concur with an amendment be considered made and agreed to with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The majority whip.

Mr. CORNYN. Mr. President, reserving the right to object, I would say to our friend from New Jersey that it is the plan, publicly announced by the majority leader, to bring this legislation that was passed by the House to the floor of the Senate next week. Obviously, we are working on the CJS appropriations bill, and our deliberation on that has been delayed by a number of the other amendments and other matters that have been voted on this week. But it has always been the intention of the majority leader to allow Senators to offer amendments, unlike, frankly, when Democrats controlled this Chamber. But I do think it is going to require some cooperation and maybe even some consent agreements to agree to amendments that can be resolved in time to meet the July 1 deadline. To me, one of the best arguments in favor of this legislation is that we want to avoid a taxpayer bailout. We want to avoid a taxpayer bailout. This legislation from the House does that. I understand the Senator may have some objections to it and some better ideas in his mind, but we are going to have that opportunity next week.

If we want to see what the effect of leftwing fiscal policy is, what we see is the bankruptcy occurring in Puerto Rico now. I think they need to try something else, some fiscal responsibility and restraint. Frankly, I worry for the rest of the country that if we don't do something to get our own fiscal house in order here in the United States Senate, the rest of the country is going to find itself in dire straits at some point in the not too distant future.

So I would say that we are going to have a chance to have that debate and those votes next week. This is not the time to do it because we have other important work that is pending before the Senate. Nor are the rest of us 99 Senators going to agree to a unanimous consent request to legislation we haven't even read or had time to consider.

So under those circumstances, I would be compelled to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I am disappointed but not surprised. I do hope that the remarks of the Senator from Texas that there will be time and opportunity for amendments are real, because every published report I have seen suggests this will be brought up next Thursday on the verge of everybody trying to go on recess. My advocacy or my unanimous consent request wasn't to bring a bill to the floor that isn't already known. That bill has been out there for some time. It is to create the process to debate and begin to amend the bill—the bill passed by the House of Representatives that has been out there for some time now. So I wasn't offering a bill of my own vision. It was to create the process.

Of course, I respect the importance of the present appropriations bill that we are discussing, but the urgency of the time limit as it relates to the default that can take place in July is not as pressing on that appropriations bill as it is for the people of Puerto Rico. So I think there can be a reasonable opportunity to move to PROMESA—a false promise, from my view—and a real opportunity to have a debate on it, and more than debate, amendments—amendments to make it better.

So I hope that is going to happen. But I want to signal now that if we are jammed on Thursday and it is an up-or-down vote—take it or leave it—that I have every intention of doing whatever I can procedurally to make sure we have amendments on this.

As it relates to the question of bankruptcy and bailout, we are not bailing anybody out here. That is why we want Puerto Rico to have access to restructuring. Restructuring is a provision under the bankruptcy code that you take your debts—whether you are an individual, a company, or, in this case, a government—and you go before the bankruptcy court and you say: Here are all of our debts, and here is our income. We want to be able to restructure this in such a way that we can be solvent and at the same time be responsible to those debtors. And they will live with the dictates of the bankruptcy court. But this bill doesn't even guarantee that the bailout my colleague is concerned about doesn't happen, because it guarantees no absolute road to restructuring.

As it relates to leftwing policies, I would just note—as someone who has been an advocate and a voice for the people of Puerto Rico for the 24 years I have been in the Congress, since they have no elected representatives here who have a vote, at the end of the day—that there have been leaders of that government in Puerto Rico, many who have been Republican in nature and others who have been Democrat in nature. The policies that have taken place and that have accrued to this moment are a combination of some bad fiscal policies by leaders on both sides of the aisle but also by policies that treat the 3.5 million U.S. citizens in Puerto Rico inferior to any one of them if they took a flight to any State in the Nation, for which they would have full rights, obligations, and benefits.

So we have been part of creating the process here, and we have been part when we took away section 936, which was an inducement to the private sector to help build jobs and economic opportunities. We just took it away. They had provisions to elements of the bankruptcy code. Somehow, in the middle of the night, that was taken away from them. So we have treated them like a colony, and now we are worried.

As it relates to leftwing policies, let me just say that, if raising incomes of people, if saying to people there should be a minimum wage that can sustain your family and help you realize your hopes and dreams and aspirations, if you are working overtime and you ultimately should have some protections that you should be paid overtime—if those are leftwing fiscal policies, then I think most Americans believe that they should get a living minimum wage to be able to sustain their families, help their children be educated, take care of their health care, and think about their retirement.

So I don't think this is about that at all. If we are going to lose a fight for the people of Puerto Rico, it is going to be because we are going to have a fight at least to have amendments and to consider what that future should be. But we are not going to take it that it is an up-or-down vote on a House-passed bill that has no voice of the Senate, no imprint of the Senate. That is not what I got elected to the Senate for.

With that, I yield the floor.

The PRESIDING OFFICER. The majority whip.

AMENDMENT NO. 4787

Mr. CORNYN. Mr. President, tomorrow we will have a chance to begin to talk about the real cause of what happened that horrible night in Orlando at the Pulse nightclub—that is a homegrown terrorist attack inspired by the poisonous ideology of ISIS, the Islamic State. We will have a chance to revisit the total lack of any coherent plan coming out of the White House to deal with the threat of the Islamic State over in the Middle East and the consequences of failing to deal with that here at home.

The poisonous fruit of that failure and previous ones is already self-evident: the massacre of American soldiers at Fort Hood, TX, in 2009 that took the lives of 13 people and an unborn child; a deadly attack on 2 military facilities in Chattanooga, TN, in 2015 that took the lives of 5 U.S. servicemembers; an attempted attack in Garland, TX, about a year ago that—but for a vigilant police officer was thwarted—could have been disastrous; and then, of course, the shooting in San Bernardino where 14 people were killed. Add to that poisonous fruit of the failure to have a coherent policy to deal with the Islamic State and its poison, the 2013 Boston Marathon bombing, where 3 persons were killed and many more wounded—not by a gun but by pressure cooker bombs made by the terrorists. Most recently, the worst terrorist attack in our country since 9/11 was in Orlando, where a jihadist pledged his allegiance to ISIS and then viciously gunned down 49 people in that Orlando nightclub.

It is telling that the Attorney General sought to withhold from the American people the 911 calls of the Orlando shooter to excise out—to rewrite history—and to diminish the terrorist influences that motivated him in the first place. It is further evidence that the Obama administration fails to see what is plainly right in front of its face when it comes to the threat, and it continues to refuse to deal with it in a

way that would crush ISIS and discourage people from becoming radicalized because they feel like ISIS is winning. If ISIS were crushed and destroyed, which should be our goal, I don't believe we would have radicalized Americans here pledging allegiance to the leader of a crushed or destroyed Islamic State.

So jihadi terrorism on American soil is not just some one-off, freak occurrence. It is now an undeniable pattern. How many ISIS-inspired attacks do we need in this country before we start talking about and taking the threat seriously and begin targeting the evil ideology ISIS is selling?

Typically, in an investigation, law enforcement has to work hours on end to answer the question of who did it. But that is not the case with these examples of Islamic extremism. We know who the enemy is. But the Obama administration has failed to call it for what it is, and the President has failed to offer any strategy to root out and exterminate it. Promises to ''defeat and degrade'' appear just about as hollow as the President's threat of retaliatory action if redlines were crossed with the use of chemical weapons in Syria. When that happened, there were no consequences.

So the result is that ISIS isn't contained, and it is surely not retreating. Don't take my word for it. The Director of the Central Intelligence Agency just last week suggested that ISIS would continue to ''intensify its global terror campaign.'' They are not giving up, and they are not going away. They are doubling down. Like the terrorist in Orlando, ISIS is actively using every tool at its disposal to recruit, train, and radicalize individuals here in America and in other parts of the world.

This terrorist army figured out a long time ago that it could accomplish its objectives of inflicting death and destruction on innocent Americans without even having to send its operatives from the Middle East into the United States. All it had to do was to export, not its soldiers, but its ideology and poisonous ideas to the United States via the Internet with the propaganda that it uses to, again, poison susceptible minds, those who are sympathetic to the cause and willing to swear allegiance to it and carry out the horrific acts like we saw in Orlando.

Over the weekend, the House Homeland Security Committee chairman noted that ISIS and its supporters are posting an estimated 200,000 tweets a day—200,000 separate messages a day on Twitter. How long will it take before the administration recognizes that this propaganda poses a growing national security problem? Once they acknowledge it, how much longer will it take them before they do something about it?

In fact, we heard from FBI Director Comey that there are open investigations on individuals suspected of being radicalized in all 50 States. I don't see the administration doing anything at all to effectively counter this terrorist propaganda popping up all over the Internet, turning some susceptible Americans into cold-blooded jihadist killers. We can fight back by equipping our law enforcement personnel with the tools they need to keep us safe. The fact is, you can't connect the dots unless you can collect the dots, and that means robust intelligence consistent with our Constitution, including the Fourth Amendment.

Too often law enforcement officials have to operate with one hand over their eye or one hand behind their back, however you want to characterize it, because they can't access key information in a timely manner, and because of that they are not able to discern the pendency of an attack or the motivations of somebody who is planning an attack. If they could collect the information, maybe—just maybe—they could then go to the FISA Court and get a search warrant. Maybe—just maybe—they could get a wiretap upon the showing of probable cause in court. Those, of course, are consistent with the Fourth Amendment protections against unreasonable searches and seizures, and the burden should be on law enforcement to produce probable cause evidence in order to justify collection of the content of those communications.

We saw the consequences of our flying blind in Garland, TX, just last year. On the morning of the attempted terrorist attack, the two men who came from Phoenix dressed in body armor with semiautomatic weapons sent more than 100 messages overseas to suspected terrorists, and vice versa, but, unfortunately, FBI Director Comey—at least the last time he testified before the Senate Judiciary Committee—said the FBI still doesn't have access to that information because of encryption. This means our law enforcement authorities could be missing critical information that could uncover future terrorist attacks or identify the network of terrorists here so we can stop them before they kill again.

The Garland case isn't unique. The FBI is regularly slowed down by outdated policies that make their job of protecting the homeland much more difficult—more difficult than it needs to be. We saw that in San Bernardino too. We have to address this gaping hole in our legal authorities and do all we can to give the FBI and our other law enforcement officials the tools they need, and a good place to start would be tomorrow morning by allowing the FBI to use national security letters to obtain key information about what suspected terrorists are doing on the Internet and whom they are communicating with online in counterterrorism investigations. This is not for content, as the Presiding Officer knows. This is information about Internet and email addresses, much as national security letters are currently authorized to collect telephone numbers and financial information. In fact, the FBI Director said the omission of this authority years ago, he believes, was an oversight, but it now provides a gaping vulnerability and has blinded the FBI to information that could well allow them to have detected the intentions earlier of jihadists like the one in Orlando.

I don't know for a fact, but I just wonder if the FBI, back when they were vetting the Orlando shooter on two separate occasions because things he said and did put him on the watch list, if they would have been notified immediately when he purchased his firearms. Well, as we now know, the FBI investigations were inconclusive and he was taken off the watch list. I wonder if the FBI had access to a national security letter that would allow them to gain information about the IP addresses he had been visiting from his Internet service provider, along with email addresses—again, not content because you can't do that without a warrant issued by the FISA Court and a showing of probable cause—and what he might have been viewing, such as YouTube videos of Anwar al-Awlaki, who was responsible for radicalizing MAJ Nidal Hasan at Fort Hood and others, and the information was sufficient enough that the President of the United States authorized the use of a drone in order to kill him on the battlefield so he could not kill other innocent Americans—well, you get my point. We need to make sure the FBI has access to all the information they can legally get their hands on, and a good place to start is voting on the McCain-Burr amendment tomorrow so the FBI can obtain information about what they are doing on the Internet and who they are communicating with, and if it is justified, to be able to then go to court and demonstrate probable cause sufficient to actually then look at content in order to prevent terrorist attacks.

I want to be clear about one thing. The FBI already has the power to review financial records like Western Union transfers and the FBI already has the power to review telephone records. They can access telephone numbers, not the content of the conversation, again, unless there is further authority issued by a court of law, but because of an inadvertent omission in the law, the FBI can't readily access the exact kind of information ISIS is using to recruit and radicalize violent extremists lurking in our midst.

We have seen how difficult it is to identify these people before they kill. Why in the world wouldn't we want to make sure we provide all the information under our constitutional laws that could be available to law enforcement to identify these people before they kill?

I introduced a similar proposal to the McCain-Burr amendment a few weeks ago in the Judiciary Committee that would address this and provide access

to this counterterrorism information. I am glad our colleagues, the senior Senators from Arizona and North Carolina, have now offered this amendment to the underlying legislation.

As the Presiding Officer knows, this provision, or one very similar to it, was contained in the Intelligence reauthorization bill that had the bipartisan support of everybody on the Intelligence Committee, save one.

This is long overdue. It is bipartisan, and I think our failure to act to grant this authority, particularly in the wake of this terrible tragedy in Orlando, would be inexcusable. This is something the FBI Director, appointed by President Obama, has said he needs. He said this is their No. 1 legislative priority. President Obama's administration—beyond just the FBI Director—supports it. What is stopping us from providing this authority?

The truth is, these threats are at our doorstep. ISIS is using every tool it has to spread fear and chaos, and we owe it to those on the frontlines of our counterterrorism efforts to get them what they need in order to more effectively counter these terrorists' efforts. It is our duty to do something about it. Unlike some of the provisions we voted on last night that would do nothing to stop people like the Orlando shooter, this could actually stop them.

I am all ears if there are other ideas when it comes to advancing commonsense proposals to fight terrorism at home and make our communities safer, but this is a good place to start. I hope going forward we can do a better job of providing the FBI and law enforcement officials the resources they need to keep us safe. This is within our grasp, and all we need to do is to take advantage of this opportunity and have a strong bipartisan vote to adopt the McCain-Burr amendment tomorrow morning.

I yield the floor.

Mr. LEAHY. Mr. President, after voting down sensible gun measures earlier this week, Republicans want to change the subject. They want to resort to scare tactics to divert the attention of the American people. Now, they are offering an overbroad proposal that they argue is needed to keep this country safe.

Let's be clear about what we need to stay safe. We need universal background checks for firearms purchases. We need to give the FBI the authority to deny guns to individuals suspected of terrorism. Senate Republicans rejected those sensible measures last night, but we still have the chance to give law enforcement real tools to fight terrorism and violent crime. We should strengthen our laws to make it easier to prosecute firearms traffickers and straw purchasers who put guns in the hands of terrorists and criminals. And we need to fund the FBI and the Justice Department so they have the resources they need to combat acts of terrorism and hate. Those are the elements of the amendment that Senators MIKULSKI, BALDWIN, NELSON, and I have filed—and those are among the actions that Congress could take to protect this country.

Instead Republicans are proposing to reduce independent oversight of FBI surveillance of Americans' Internet activities and make permanent a law that, as of last year, had never been used. And I should note that this is the same law that the Republican leadership in the Senate allowed to expire just last year.

In case there is any confusion, I will state it clearly: The McCain amendment would not have prevented the Orlando attack.

The amendment would eliminate the requirement for a court order when the FBI wants to obtain detailed information about Americans' Internet activities in national security investigations. This could cover Web sites Americans have visited; extensive information on who Americans communicate with through email, chat, and text messages; and where and when Americans log onto the Internet and into social media accounts. Over time, this information would provide highly revealing details about Americans' personal lives. The government should not be able to obtain this information whenever it wants by simply issuing a subpoena.

Senator CORNYN and others have argued forcefully that we cannot prevent people on the terrorist watch list from obtaining firearms without due process and judicial review. They say we need an independent decisionmaker; yet at the same time, they are proposing to remove judicial approval when the FBI wants to find out what Web sites Americans are visiting. The FBI already has authority to obtain this information—if it obtains a court order under section 215 of the USA PATRIOT Act. In an emergency where there is not time to go to court, the USA FREEDOM Act allows the FBI to obtain this information before getting judicial approval, so this amendment is unnecessary.

This amendment is opposed by major technology companies and privacy groups across the political spectrum, from FreedomWorks to Google to the ACLU. I ask unanimous consent that a letter from nearly 40 organizations and companies opposing this proposal be printed in the RECORD at the conclusion of my remarks.

The Judiciary Committee also should study this proposal before it proceeds. The Judiciary Committee has not held a hearing to examine whether this expansion of the NSL statute is necessary or how it would affect Americans' privacy and civil liberties.

Rather than trying to distract us from their opposition to commonsense gun measures, Republicans should support actions that will actually help protect us, like those in the amendment filed by Senator MIKULSKI, Senator BALDWIN, Senator NELSON, and myself. They should support emergency FBI funding. They should support funding for the civil rights division to help protect the LGBT community, the Muslim American community, and the African-American community from hate crimes and discrimination. And they should support my proposal to make it harder for terrorists and criminals to evade background checks by turning to firearms traffickers and straw purchasers. This is a provision that I have developed with Senator COLLINS and that has been strongly supported by law enforcement.

As we saw in San Bernardino, terrorists can acquire assault rifles by simply using a friend to purchase the guns for them; yet prosecuting such individuals for firearms trafficking has proven to be an extremely difficult task. My proposal will fix these laws. It will provide law enforcement the tools it needs to deter and prosecute those who traffic in firearms, and it will help to close another glaring loophole in our gun laws that allows terrorists and criminals to easily acquire powerful firearms.

I urge Senators to oppose the McCain amendment and to support these measures that will actually help keep our country safe.

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

JUNE 6, 2016.

DEAR SENATOR: The undersigned civil society organizations, companies, and trade associations strongly oppose an expansion of the National Security Letter (NSL) statute, such as the one that was reportedly included in the Senate's Intelligence Authorization Act for Fiscal Year 2017 and the one filed by Senator CORNYN as an amendment to the ECPA reform bill. We would oppose any version of these bills that included such a propsal expanding the government's ability to access private data without a court order.

This expansion of the NSL statute has been characterized by some government officials as merely fixing a ''typo'' in the law. In reality, however, it would dramatically expand the ability of the FBI to get sensitive information about users' online activities without court oversight. The provision would expand the categories of records, known as Electronic Communication Transactional Records (ECTRs), that the FBI can obtain using administrative subpoenas called NSLs, which do not require probable cause. Under these proposals, ECTRs would include a host of online information, such as IP addresses, routing and transmission information, session data, and more.

The new categories of information that could be collected using an NSL—and thus without any oversight from a judge—would paint an incredibly intimate picture of an individual's life. For example, ECTRs could include a person's browsing history, email metadata, location information, and the exact date and time a person signs in or out of a particular online account. This information could reveal details about a person's political affiliation, medical conditions, religion, substance abuse history, sexual orientation, and, in spite of the exclusion of cell tower information in the Cornyn amendment, even his or her movements throughout the day.

The civil liberties and human rights concerns associated with such an expansion are compounded by the government's history of

abusing NSL authorities. In the past ten years, the FBI has issued over 300,000 NSLs, a vast majority of which included gag orders that prevented companies from disclosing that they received a request for information. An audit by the Office of the Inspector General (IG) at the Department of Justice in 2007 found that the FBI illegally used NSLs to collect information that was not permitted by the NSL statutes. In addition, the IG found that data collected pursuant to NSLs was stored indefinitely, used to gain access to private information in cases that were not relevant to an FBI investigation, and that NSLs were used to conduct bulk collection of tens of thousands of records at a time.

Given the sensitive nature of the information that could be swept up under the proposed expansion, and the documented past abuses of the underlying NSL statute, we urge the Senate to remove this provision from the Intelligence Authorization bill and oppose efforts to include such language in the ECPA reform bill, which has never included the proposed NSL expansion.

Sincerely,

Access Now, Advocacy for Principled Action in Government, American Association of Law Libraries, American Civil Liberties Union, American Library Association, American-Arab Anti-Discrimination Committee, Amnesty International USA, Association of Research Libraries, Brennan Center for Justice, Center for Democracy & Technology, Center for Financial Privacy and Human Rights, CompTIA, Computer & Communications Industry Association, Constitutional Alliance, Demand Progress, Electronic Frontier Foundation, Engine.

Facebook, Fight for the Future, Foursquare, Free Press Action Fund, FreedomWorks, Google, Government Accountability Project, Human Rights Watch, Institute for Policy Innovation, Internet Infrastructure Coalition/I2Coalition, National Association of Criminal Defense Lawyers, New America's Open Technology Institute, OpenTheGovernment.org, R Street, Reform Government Surveillance, Restore the Fourth, Tech Freedom, The Constitution Project, World Privacy Forum, Yahoo.

The PRESIDING OFFICER. The Senator from Maryland.

MASS SHOOTING IN ORLANDO

Mr. CARDIN. Mr. President, I take this time to continue the discussion as to the tragedy that occurred on June 12 in Orlando, FL. The shooting occurred at a popular LGBT club, Pulse. The club owner, Barbara Poma, lost her brother to the AIDS epidemic. The club was named to remember a pulse that faded from this world far too early. Pulse was not just a place to socialize, it was a refuge and a place of acceptance and solidarity where members of the Orlando LGBT community could be themselves without judgment.

The fact that an attacker would target this venue, especially during Gay Pride Month, is a horrific tragedy and a senseless loss of human life. My deepest sympathies are with those killed and injured in this terrorist attack, along with their families and loved ones. My thanks go out to the first responders who saved lives in the midst of such danger.

This attack, and others like it in recent years, tears at our hearts and leaves us angry, frustrated, and confused. We, as a nation, must resolve to stop those who wish to do harm to Americans from committing and encouraging acts of terror.

The Orlando shooter apparently subscribed to an extreme system of beliefs that led him to carry out this heinous attack. No religion condones or encourages such violence and killing. We must reject any ideology that leaves room for discrimination and dehumanization to a point where someone can commit these types of acts. No one should ever fear for their life simply for being themselves or expressing who they are as an individual. America's values of tolerance, compassion, freedom, and love for thy neighbor must win out over hate, intolerance, homophobia, and xenophobia.

The time for talk is over. We, as a nation, as a community, and as an American family, must take actions to change minds, hearts, and, finally, change policies. The attack in Orlando was a terror attack and a hate crime. We can stop others and save lives by taking immediate action.

I was disappointed we missed opportunities to do that yesterday with sensible gun safety amendments. I cosponsored the Murphy amendment, which would have created a system of universal background checks for individuals trying to buy a gun. The amendment would have ensured that all individuals who should be prohibited from buying a firearm are listed in the National Instant Criminal Background Check System and would require a background check for every firearm sale. We know there are loopholes today. Why do we allow those loopholes to continue? It should not matter whether you buy a gun at a local gun store or at a gun show or on the Internet, you should have to pass a background check so we can make sure guns are kept out of the hands of people who should never have one. This amendment would have helped keep guns out of the hands of convicted felons, domestic abusers, and the seriously mentally ill, who have no business buying a gun.

Studies have shown that nearly half of all current gun sales are made by private sellers who are exempt from conducting background checks.

It makes no sense that felons, fugitives, and others who are legally prohibited from having a gun can easily use a loophole to buy a gun.

Once again, the use of a universal background check will have no impact on the legitimate needs of people who are entitled to have a weapon, but universal background checks could and would help us keep our communities safe by helping us keep weapons out of the hands of criminals and those who have serious mental illness and domestic abusers. We need to stop their ability to easily be able to obtain a weapon.

Universal background checks are strongly supported by the American people. Most background checks can be completed very quickly and do not inconvenience a purchaser at all.

To my colleagues who have reservations about this legislation, let me cite the Heller decision. In June 2008 the Supreme Court decided the case of District of Columbia v. Heller. The Court held that the Second Amendment protects an individual's right to bear arms rather than a collective right to possess a firearm. The Court also held that the Second Amendment right is not unlimited, and it is not a right to keep and carry any weapon whatsoever in any manner and for any purpose.

Justice Scalia wrote for the Court in that case:

> Nothing in our opinion should be taken to cast doubt on the longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of firearms.

That was Justice Scalia for the Court.

Justice Scalia recognized Congress's right to make sure those who are not qualified to own a firearm do not get that firearm. We have an obligation to make sure that background checks are effective so as to keep out of the hands of criminals and those who have serious mental illness the opportunity to easily be able to obtain a firearm.

The legislation pending before us in the Senate is fully consistent with the Heller decision. That amendment would have been fully consistent with the Heller decision and Justice Scalia's opinion.

I know we can protect innocent Americans while still protecting the constitutional rights of legitimate hunters and existing gun owners. We should take that action on behalf of the American people.

There was a second amendment I cosponsored that unfortunately was rejected yesterday—the Feinstein amendment—that would close the terror gap. If you are not safe enough to fly on an airplane, you shouldn't be able to buy a gun. The Feinstein amendment would give the Attorney General the authority to block the sale of guns to known or suspected terrorists if the Attorney General has reason to believe the weapons would be used in connection with terrorism. The amendment would have ensured that anyone who had been subject to a Federal terrorism investigation in the past 5 years would have been automatically flagged with the existing background check system for further review by the Department of Justice.

Note that under this amendment, being included on a terrorist watch list is not by itself a sufficient justification to deny a person the right to buy a firearm. The Attorney General may deny that weapon transfer only if she determines that the purchaser represents a threat to public safety based on a reasonable suspicion that the purchaser is engaged or has engaged in conduct related to terrorism. So there is a standard there.

A recent GAO report concluded that approximately 90 percent of individuals who were known or suspected terrorists were able to pass background gun checks. This amendment would have closed this loophole and would have reduced the risk of a terrorist being able to legally acquire a firearm.

Under current law, individuals who are known or suspected terrorists and do not fall into one of the nine prohibited purchaser categories can legally purchase a weapon. While the FBI is notified when individuals on the terrorist watch list apply for a background check through the National Instant Criminal Background Check System, it does not have the authority to block the sale.

The Feinstein amendment contains remedial procedures so that individuals get the reason for denial, the right to correct the record, and the right to bring action to challenge the denial. In other words, there is due process in the Feinstein amendment.

So I was disappointed that the two amendment chances we had yesterday were not approved by the Senate. I think both would have helped in making our communities safer.

Congress has an obligation to act. As I have indicated before, we need to act. Inaction is not an option. The President of the United States has already acted to the extent he is permitted using his Executive authority. Many of our States have acted as well, including my own State of Maryland, but we need a national law that applies to all 50 States to stop criminals, terrorists, domestic abusers, and others who should not get their hands on a gun from simply driving to a nearby State with less restrictive gun laws and being able to legally acquire a weapon.

I encourage my colleagues to continue to work on compromise legislation on the issue of universal background checks and terror watch lists. Congress should also act to ban assault-type weapons, which have no legitimate civilian use, and we should ban the sale of high-capacity magazines which only increase the level of carnage in a mass shooting.

The time for action is now. We cannot wait.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

MINERS PROTECTION ACT

Mrs. CAPITO. Mr. President, I rise today to express the urgent need to take up and pass a piece of legislation which has great meaning for me and my fellow West Virginians and which is important to our Nation's coal-mining community, and that is the Miners Protection Act.

Seventy years ago, in 1946, President Harry Truman secured an agreement committing the Federal Government to protect lifetime health and pension benefits for our Nation's miners. These men and women earned this care through their tireless and often very dangerous work to produce the coal that has powered our Nation and spurred economic growth for years.

Over the course of seven decades, Congress has kept their promise. In 1992, a bipartisan effort in Congress led by my predecessor, Senator Rockefeller, resulted in the passage of the Coal Act to address the health care needs of orphaned coal miners. Those are miners whose companies are no longer in existence.

In 2006, I voted for legislation that built upon the Coal Act and continued the bipartisan congressional tradition, fulfilling our promise to coal miners and their families and retirees and protecting their promised health care benefits.

In 2012, the bankruptcy of Patriot Coal placed the health care of more than 12,000 retirees and dependents at risk. A temporary solution, which has been going on for a couple of years, has preserved health care for these individuals, but that short-term solution is nearing an end.

Additional coal industry bankruptcies—and I feel like we hear about one a week, and they are major—have threatened health care benefits for more families.

If we don't act now, health care for more than 21,000 miners and families will be lost by the end of this year—just 6 months from now.

West Virginians really know what mining has meant to our State and to our Nation, and our miners have depended on these benefits. Every day I am reminded of this.

Char from Bob White, WV—and Bob White is the name of the little town he lives in—recently wrote to me:

> We are desperate. Our benefits are about to lapse unless we get this legislation passed. It cannot be ignored again. Many retired miners cannot afford to pay for their medications if we lose our health care.

Kenneth, who lives in Mullens, WV, said:

> It seems more and more that the attack on coal is no longer an industry attack but one that is personal on individuals.

He went on to ask this question: ''What about folks like me that worked hard their entire life?''

Recognizing the significance of this problem, I joined with Congressman DAVID MCKINLEY to introduce legislation in 2013 that addressed both the retiree health care and the looming insolvency of the mine workers' multiemployer pension bill.

Last year, Senator MANCHIN and I introduced the Miners Protection Act, a very similar bill. This bill demands immediate action. We need to follow through with our commitment to all the hard-working West Virginians and other coal miners across this country. In addition to addressing the health care needs of retirees through the same mechanisms supported by Congress in 1993 and 2006, the Miners Protection Act will ensure the solvency of the multiemployer pension plan that provides benefits to almost 90,000 retirees and surviving spouses. More than 27,000 of those—nearly one-third—live in my home State of West Virginia. The Miners Protection Act uses unobligated funds authorized by the 2006 AML reauthorization bill to support existing mine-working health and pension programs.

Let's be clear. Mining retirees do not receive lavish benefits. The average pension payment is only $560 per month. But these funds are vital to our retirees who live on very small fixed incomes. They are a key part of a local economy in West Virginia and other States where these retirees live.

If we fail to act, the pension plan will become insolvent, imposing projected liabilities of over $4 billion on the PBGC, known as the Pension Benefit Guaranty Corporation. If we pass the Miners Protection Act, the pension plan will remain in good standing, benefiting taxpayers, beneficiaries, and coal communities.

In May, the trustees of the UMWA Health and Retirement Funds announced that contributions to the pension fund have dropped by nearly two-thirds from last year's level. This just shows you how devastated our coal communities are.

The continued regulatory assault on the coal industry has hastened this decline and threatened the retirement security of our miners. In 2001, the EPA finalized the mercury and air toxins rule for coal plants. Since that time, our Nation has lost more than 40,000 coal jobs, and 1,000 of those workers are West Virginians. Our State's unemployment is among the highest in the country for this very reason. The impact of other EPA proposals, like the Clean Power Plan, which has been stayed by the Supreme Court, and the stream protection rule that is currently being finalized, would make the situation even worse in our coal communities.

As I have said many times before, the negative regulatory impact on coal extends far beyond the tens of thousands of families who are most directly affected. A loss of coal severance tax revenue has triggered drastic budget problems for our State, which we just got a 1-year solution for, and a lot of our local governments are having to lay off county workers and school workers and schoolteachers.

The severe impact on the health care pensions of our miners is another consequence of the administration's War on Coal.

Given that Federal policies have played a major role in causing this problem, it is appropriate for the Federal Government to fulfill its commitment to retiring miners who will lose their promised benefits unless we act.

The Miners Protection Act is critically important to so many people in my State and across this country. We need to keep the promise of lifetime health care for those retired coal miners whose companies have gone through bankruptcy, and we need to

make sure our retirees receive the pension benefits they have worked so hard for.

The Miners Protection Act is a truly bipartisan effort. It is supported by Democrats and Republicans and Independents in the Senate. There are 72 cosponsors on the House bill, including 39 Republicans and 33 Democrats.

West Virginians understand that this need not be a political football. As Thomas from Shady Spring, WV, put it, ''This issue is not partisan; this is an easy fix to funding promised pensions.''

It is important this bill be enacted this year before the temporary solution expires and ends the health care benefits for so many retirees and before the continued downturn takes an even greater toll on the pension fund.

I will continue to work with my colleagues in the West Virginia delegation, including Senator MANCHIN, Congressman MCKINLEY, Congressman MOONEY, and Congressman JENKINS, and all of the other cosponsors of this legislation, to see it become law before it is too late.

Thank you, Mr. President.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MANCHIN. Mr. President, first of all, I thank my colleague, Senator CAPITO. We come from the same State, and we have known each other for a long time, and we basically represent the same people, who have given so much to this country. I want to thank her. This is truly bipartisan, and that is how it should be in this body. When you have something causing the people in your State and in the country to be hurting, you don't worry about the politics. Democrat or Republican, you reach across the aisle and do the right thing.

I thank her so much. Everything she said is absolutely correct. This thing goes clear back to 1946 under President Harry Truman. At that point in time, John L. Lewis basically was going on strike for the MWA. Every miner back in the 1940s belonged to the United Mine Workers. This Miners Protection Act basically fulfills the promise that a President of the United States made by Executive order. And what we have asked for now is to fix this.

We have a pathway forward. Democrats and Republicans on both sides of the aisle, as Senator CAPITO has said, have stepped forward, and I am so appreciative of that. If we don't do something quickly—by the end of this year—they will lose their health care, and in another year or two they are going to lose their pensions.

We are mostly talking about widows. Most of their husbands have passed away from black lung disease or other causes. These are widows who don't have much to begin with. These are stipends that assist with their medical and health care.

This is something that should have been done a long time ago, but we are taking it right down to the end of the wire. That is what we are concerned about.

We have asked everybody to look at the bill. We have found pay-fors.

Here is a really good pay-for. The 1974 fund was solid until the collapse of 2008. The collapse didn't happen because the MWA did something wrong with the miners' pensions. It happened because of Wall Street. Guess what. We have a $5 billion fine on Goldman Sachs. We said: Let's take $3.5 billion of it. That is what caused the problem; that is a pay-for. We are also using abandoned mine land money excess—not any of the mitigation we are responsible for.

Senator CAPITO has laid this out to the point, and we have worked together. Both of our staffs have worked closely together on this. This is the way things should have been done.

We hope that all of our colleagues on both sides of the aisle will encourage the leadership to take a position on this and put it up for a vote. We think it will pass. We know that it will pass if it gets its day in court. This is the body that will make it happen. I think on the House side they will do the same thing.

With that, I thank Senator CAPITO again for the hard work she has done. It is a pleasure working with her, and we will show that bipartisanship is alive and well in West Virginia and should be alive and well in the United States of America.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. AYOTTE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ENDING U.S. AID FOR PALESTINIAN ACTS OF TERRORISM

Mr. COATS. Madam President, terrorist violence against civilians in Israel has been accelerating in recent years amounting to what is now called the silent intifada, the term meaning ''violent uprising.'' Perhaps it is called silent because we are not paying enough attention to the atrocities that are currently taking place in Israel.

The first intifada lasted from December 1987 to 1993, the second, from 2000 to 2005. This third uprising, the so-called silent intifada, began in Jerusalem in 2014. Last year, the latest intifada was characterized with a new name, ''knife intifada.'' Earlier, we witnessed media accounts of Palestinian terrorists slaughtering Israelis and others, including American citizens, by blowing up restaurants or schoolbuses or using automatic weapons. Breaking news on CNN or FOX, or whatever we were watching, showed us the scenes of body parts, pools of blood in the streets, ambulances, with sirens screaming, rushing to the nearest hospital or aid station with mutilated and badly injured victims of these attacks. Lately, though, the weapons of choice seem to be increasingly the knife. Apparently, in some ways, the Palestinians think the direct face-to-face bloody slaughter of a teenager or a grandmother by a knife-wielding thug makes it even more personal and horrifying. Americans may know, through recent media reports, about this wave of violence injecting new poison into the region, but I think what most don't know is that American taxpayers are supporting this with their tax dollars. Let me repeat that.

While we may be aware of some of what is going on in Israel through this knife intifada, through the continued horrors and the murders that are taking place, what Americans don't seem to know—in fact, what many of us have now learned—is that their tax dollars are supporting this effort. Since 1998, the Palestinian Authority has been encouraging such attacks by honoring and supporting Palestinian terrorists serving criminal sentences in Israeli prisons and rewarding the families of those who were martyred by their own violent acts.

Since then, the system of payments has been formalized and expanded by President Abbas in Presidential directives. Palestinian terrorist prisoners are regarded by the Palestinian Authority as patriotic martyrs, fighters, heroes, and actually as employees of the Government of the Palestinian Authority. While in prison for their crimes, they and their families are paid premium salaries and given extra benefits as rewards for their service—their service being a criminal act, an assault, and even a murder. It is interesting that they use that word. Under release from custody, the terrorists then become civil service employees. Shockingly, monthly salaries for both incarcerated and released prisoners are on a sliding scale, depending on the severity of the crime and the length of the prison sentence. Thus, the more heinous the crime, carrying a longer sentence, enables the criminal or his family to receive a much higher premium salary. For example, a prisoner with a 5-year sentence or his family receives about $500 a month; whereas, a more serious criminal serving a 25-year sentence will receive $2,500 a month—six times the average income of the average Palestinian worker. Where else in the world does a prisoner receive such benefits that actually increase with the severity and violence of the crime?

In May 2014, Palestinian President Mahmoud Abbas issued a Presidential

decree that moved this payment system from the PA, Palestinian Authority, to the PLO, the Palestine Liberation Organization. The openly acknowledged reason for this shift was to sidestep the increasingly critical scrutiny of this payment system by foreign governments—including the United States—which are contributing much of the money that is keeping the Palestinian Authority afloat.

In 2014, I, along with Senators GRAHAM and KIRK, cosponsored an amendment to the fiscal year 2015 appropriations bill providing for the reduction of budgetary support for the PA by an amount the Secretary of State determines is equivalent to the amount expended by the PA as payments for acts of terrorism by individuals who are imprisoned after being fairly tried and convicted for acts of terrorism and by individuals who died committing acts of terrorism during the previous calendar year. That is something Senator KIRK, Senator GRAHAM, and I worked on to try to address this issue. Subsequent annual appropriations legislation continues now to include this provision. Once that prohibition was enacted and became law, PA President Abbas formally ended the program and transferred that support function to the PLO, by transferring to the PLO the exact amount that had been budgeted by the Palestinian Authority accounts for this prisoner support purpose; in other words, nothing but a shell game. Oh, we are getting a lot of criticism about providing support to these so-called martyrs, these criminals who have been convicted in Israeli courts. We are getting criticized for doing that—actually, people are telling us it is an incentive to do this. The sickness of this is that families benefit by having one member of their family actually go out and commit a crime, including a murder, getting sentenced to prison for a number of years, and then the family or the criminal is being rewarded for that very act.

So when criticism came and the language we passed in the Congress which enforced this came, Abbas simply pulled out a shell game and said: I will just shift the money and the authority over here, designating that the cutoff of aid by the United States and other countries now was going to a different authority. Now, the relationship between the two organizations, while complex, is also very intertwined. While the PLO claims it is an independent body, the PA receives its legitimacy and mandate from the PLO in agreements with Israel. In effect, the PA is subordinate to the PLO.

I am speaking on the Senate floor because I have become increasingly concerned that this payment issue is not receiving the public attention and criticism it deserves. People think, well, we have solved the problem through the language which we passed a couple of years ago but are now discovering that a shell game was simply in play and that money is simply fungible and then shifted over to another function under the PA called the PLO that is then now distributing the money to the families.

It appears some pro-Israel organizations may be hesitant to bring more pressure on the financially weak, dependent PA, believing it would deprive Abbas of what little remains of his authority and status as a negotiating partner, thus making a negotiated settlement with Israel less likely. It also appears that some Israeli officials have been reluctant to support the cutoff of aid to the PA, presumably to preserve the PA's stability as a West Bank security provider.

Our administration—the U.S. administration—is similarly not eager to enforce this issue. The Department of State's Bureau of Counterterrorism said in a report last month that this payment system was ''an effort to reintegrate released prisoners into society and prevent recruitment by hostile political factions.'' There is nothing in the PA Presidential directives establishing this system that justifies such an absurdly positive view of its purposes. The U.S. Government should not see this payment program in such a positive light at all, nor does the Palestinian Authority deserve immunity because of its fragility. These payments provide rewards and motivations for brutal terrorists, plain and simple. To provide U.S. taxpayer money to Abbas and his government so they can treat terrorists as heroes or glorious martyrs is morally unacceptable. To tolerate such an outrage because of concern for Abbas's political future or preserving the PA's security role for Israel amounts to self-imposed extortion. If the PA's fragile financial condition requires U.S. assistance, then it is their policy—not ours—that must change.

Let me be more specific as to why we need to take immediate action to stop the use of U.S. taxpayer dollars to reward the PLO for its barbaric acts. Since 2014, there have been at least 45 terrorist attacks in Israel killing 585 people, including Americans. Just this past March, Taylor Force, a U.S. Army veteran of Iraq and Afghanistan, was stabbed to death by a Palestinian terrorist in Jaffa. Taylor was a graduate of the U.S. military academy, and as a former U.S. military officer, he was buried with full honors. His attacker was killed by the Israeli police. This terrorist then received the honors of his own community and a burial ceremony that glorified him as a martyr, the highest religious achievement in Islam. The official Palestinian Authority spokesman said the celebration funeral was ''a national wedding befitting of martyrs''—a reference to the Islamic belief that a martyr marries 72 dark-eyed virgins in paradise.

The family who presumably paid for this celebration received substantial rewards from the Palestinian Government and will now receive a permanent monthly stipend. Some of that money is paid into the U.S. Treasury by American taxpayers and is given as assistance to the Palestinian Authority, which is then shell moved over to the PLO and then provided as a reward for killing an American soldier.

I, for one—and I am sure I am speaking for the American taxpayer—am not interested in paying for a martyr's funeral or his so-called wedding. I am also not interested in paying for what amounts to civil servant salaries for the two terrorists who shot four Israelis to death this past June in Tel Aviv or the two Palestinian boys who attacked customers in a supermarket in February or the 16-year-old terrorist who stabbed an Israeli mother of six to death in her own kitchen last January.

I could go on and on about these atrocities and murders, and to think that American taxpayer dollars are paying the families and criminals of those who committed the crimes, with our tax dollars.

As I said earlier, we need an immediate response to this outrage, and I am ready to lead the effort. First, I intend to work with my colleagues, particularly Senator GRAHAM and Senator KIRK, who are on the relevant committees and had joined me years ago to try to put a stop to this. I want to work with them to end American financial support for incarcerated terrorists or the families of these so-called martyrs who have earned that status by the brutal slaying of Jewish citizens, including some Americans. We will identify the amount of money that flows from the PA to the PLO for this purpose and cut U.S. assistance by at least that amount. If that partial cutoff of U.S. aid is not sufficient to motivate the PA to end this immoral system of payments to terrorists, I propose a complete suspension of any financial assistance to the Palestinian Authority until their policy has changed.

I am aware that suspending assistance to the Palestinians will have other consequences that we and Israel will have to address, but I believe the pressure that we and other like-minded governments could and should apply in this manner will bring President Abbas and other Palestinian officials to their senses. Whether or not this will occur, the moral imperative is clear: Payments that reward and encourage terrorism must stop. We have a moral obligation to do all that we can, as soon as we can, to stop financing the murder of innocent Israelis and Israel's friends and supporters.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GARDNER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FOR-PROFIT COLLEGES

Mr. DURBIN. Mr. President, I have taken the floor many times to call to

the attention of the Senate abuses by for-profit colleges, an industry that enrolls 10 percent of all college students, receives 20 percent of all Federal aid to education, and accounts for 40 percent of all student loan defaults. That is 10 percent of the students and 40 percent of the student loan defaults. I have spoken about specific companies involved in this industry—for-profit colleges and universities—including Corinthian, the University of Phoenix, DeVry, ITT Tech, Westwood, and Ashford. It is a long list. I have spoken about Congress's responsibility and the responsibility of the Department of Education to reform higher education laws and be aggressive in overseeing these companies. Fortunately, things are starting to change at the Department of Education.

Today, I wish to speak about the accreditors and one in particular—the Accrediting Council for Independent Colleges and Schools, or ACICS.

Accreditors are, according to the Department of Education, responsible for ensuring that education provided by institutions meet acceptable levels of quality. In that role, they are, frankly, the gatekeepers of Federal dollars that flow to these colleges and universities. Without accreditation, the schools can't receive the money through the students for Pell grants and Federal loans. But, by law, the Department of Education decides which accrediting agencies are ''reliable authorities as to the quality of education or training provided by the institutions of higher education and the higher education programs they accredit.''

In order to be a gatekeeper of Federal educational student aid funds like loans and grants, these accrediting agencies must be approved by the Department of Education. The Department performs periodic reviews of federally recognized accrediting agencies to ensure that they are still ''reliable authorities.''

Here is where ACICS comes in. This outfit is currently undergoing one of those regular reviews by the Department and the Department's advisory board. It is a group called NACIQI, the National Advisory Committee on Institutional Quality and Integrity and they will hold a hearing on ACICS this Thursday. Last week, in the first part of this review process, the Department of Education staff made its initial recommendation to NACIQI to revoke the recognition of ACICS, an accrediting agency responsible for about 25 percent of all for-profit colleges and universities.

This is the right decision. I commend the Department. I hope that NACIQI and ultimately the Secretary of Education, Mr. King, will follow the recommendation.

Last week, I joined Senators BLUMENTHAL, MURRAY, BROWN, and WARREN in writing to NACIQI to express support for their recommendation. For too long, this accrediting agency has acted as a rubberstamp for some of the worst for-profit colleges in America. Let's take one example to start with: Corinthian. Some will remember this company. It lied to the Federal Government and to the students who went to school there about its job placement rates. Listen to this. They used a scheme where they paid employers to hire recent graduates of Corinthian in temporary jobs so that Corinthian could report to the Federal Government that their graduates got employment. They were caught. The fraud was systemic at Corinthian and ultimately resulted in its bankruptcy. They were defrauding the government and, even worse, they were defrauding these students and their parents.

I wrote to the Department of Education asking them to look into these allegations of fraud about Corinthian in December of 2013. That same day I wrote to Dr. Albert Gray. He was the CEO of ACICS, which was the agency which accredited Corinthian. That was the agency that said to the Federal Government: This is a real college; you should let Federal funds flow to this college.

So I wrote to Dr. Gray and I said: What are you doing as an accrediting agency to hold Corinthian accountable and to ensure that they do not continue their fraudulent practices?

I received a response from Dr. Gray. His letter said the allegations were ''a source of great concern'' and that the council that he administered would review information submitted by Corinthian and ''make a determination of what actions to take regarding additional inquiries, compliance hearings or more serious sanctions.''

This so-called review of Corinthian by ACICS continued for more than a year, even as States like California, Massachusetts, and Wisconsin and Federal agencies such as the Consumer Financial Protection Bureau filed suit against Corinthian for their corrupt practices. Meanwhile, their accrediting agency was ''really looking into this''—really looking hard.

As the evidence of Corinthian's fraud and abuse mounted, ACICS—this accrediting agency—continued its wishy-washy ''monitoring'' that never led to anything. In fact, up until the date that Corinthian Colleges declared bankruptcy in May of 2015, they were still fully accredited by this ACICS accrediting agency. That is disgraceful.

But it wasn't disgraceful to ACICS. In response to an effort by Senator CHRIS MURPHY of Connecticut in a 2015 Senate HELP Committee hearing to get Dr. Gray to admit that ACICS made a mistake by continuing to accredit Corinthian, Dr. Gray said:

> I will be the first to admit that accreditors like any other organization make mistakes. Corinthian was not one of those mistakes.

Incredible—here is a group that has defrauded students, defrauded the Federal Government, is being sued by at least three States and other Federal agencies, had declared bankruptcy, and the accrediting agency was still standing firmly behind it. Is this an organization that we can truly trust as taxpayers to be a reliable authority as to the quality of education? This is the gatekeeper—this agency, this accrediting agency—the gatekeeper for millions and sometimes billions of dollars to flow out of the Treasury from taxpayers through students and their families to lots of CEOs at for-profit colleges that are doing quite well, thank you. History tells us we can't trust ACICS.

Corinthian isn't the only embarrassment on the ACICS resume. According to the Center for American Progress, more than half of the $5.7 billion in Federal student aid awarded to ACICS-accredited schools in the past 3 years went to institutions facing State and Federal investigations or lawsuits. Twenty percent of the students at these for-profit schools accredited by this discredited agency defaulted on their Federal student loans. Does this sound like an organization that is a reliable authority when it comes to quality education schools provide?

In my home State of Illinois, Attorney General Lisa Madigan, who has been a real leader on this subject, settled a lawsuit last year against the notorious Westwood College. Westwood's practices were not all that different from Corinthian—lying to students about job prospects.

I remember meeting a young girl in Chicago. She had been smitten by all of these criminal investigation shows on television. So she signed up at Westwood, and she signed up to take courses in criminal justice. It took her 5 years to finish, to get her so-called degree from Westwood College in Chicago. Do you know what she found afterwards? Not a single law enforcement agency would even recognize her diploma. She spent 5 years and, even worse, she went deeply in debt—almost $90,000 in debt—for a worthless diploma from Westwood College. She moved back into her parents' home, living in the basement, and her dad came out of retirement to try to earn some money to help pay off the student loans at this worthless Westwood school.

Guess who accredited Westwood College. ACICS, the same agency. In fact, in the course of their investigation, the attorney general's office found that ACICS was not annually verifying even a sample of job placements reported by Westwood and other institutions they accredited.

There are so many other examples of negligence by this accrediting agency. That is why 13 State attorneys general, including Lisa Madigan of Illinois, have written to the Department of Education asking them to revoke ACICS' recognition.

Mr. President, I ask unanimous consent that the letter from the attorneys general be printed in the RECORD.

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

THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF THE ATTORNEY GENERAL,

April 8, 2016.

Re Opposing the Application for Renewal of Recognition of the Accrediting Council for Independent Colleges and Schools (ACICS).

Hon. JOHN KING,

Department of Education, Washington, DC.

JENNIFER HONG,

Executive Director/Designated Federal Official, National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, Washington, DC.

DEAR SECRETARY KING AND MS. HONG: We write in response to the notice of intent to accept written comments on the application for renewal of accrediting agencies, specifically, the Accrediting Council for Independent Colleges and Schools (ACICS), as published in the Federal Register on March 18, 2016. We have carefully reviewed the Criteria for the Recognition of Accrediting Agencies, including §§ 602.16(a)(1)(i), 602.19(a) & (b), and 602.20(a), that are of particular importance to our consumers. We believe that stronger oversight by accrediting agencies is necessary to protect vulnerable students from predatory schools, ensure accountability to taxpayers, and level the playing field for career schools that are delivering quality, affordable programs. Given ACICS' failure to ensure program quality at the institutions it accredits, we oppose renewal of recognition and urge the Department to revoke its status as a recognized accreditor.

Because the Department of Education does not directly assess the quality of institutions of higher education, students depend on accreditors to ensure that schools provide an education that fleets at least minimum standards of quality. Accreditors, more than any other party charged with .he supervision of higher education, are responsible for protecting students from profit-seeking institutions offering training of no educational value. Today, when millions of students are defaulting on the student loans they incurred to attend subpar for-profit schools, it is clear that certain accreditors are failing to do the job.

Even in the crowded field of accrediting failures, ACICS deserves special opprobrium. According to a recent analysis by ProPublica, only 35% of students enrolled at ACICS accredited schools graduate from their programs, ''the lowest rate for any accreditor.'' Of students who actually did graduate, more than one in five defaulted on their student loans within the first three years after graduation. A full 60% had not yet paid down a single dollar of the principal balance on their loans.

As consumer advocates in our respective states, our offices have investigated many ACICS accredited schools based on complaints from students, and found a fundamental lack of substantive oversight for student outcomes by the accreditor. Lapses that we have encountered include a failure to take action when improper job placement statistics are reported, inadequate job placement verification processes, and a lack of transparency and cooperation with investigations into student outcomes.

ACICS' most spectacular failure was its decision to extend accreditation to several dozen schools operated by Corinthian Colleges. Corinthian's practice of offering extremely expensive degrees of little value to low-income students has been the target of more than twenty state and federal law enforcement agencies. Yet ACICS continued to provide accreditation to Corinthian's schools until the day Corinthian declared bankruptcy. The U.S. taxpayer provided approximately $3.5 billion to Corinthian, made possible by ACICS's accreditation.

ACICS has failed repeatedly to take action in response to public enforcement actions by state and federal law enforcement. In the Illinois Attorney General's investigation and subsequent litigation with Westwood College, the office found that ACICS was not annually verifying even a sample of job placements reported by the institutions it accredits. When asked by the attorney general's office, ACICS would not commit to formally outline their verification process in an affidavit. This type of obfuscation hinders regulatory cooperation between the ''triad'' that oversees higher education in the United States, the federal government, the states, and accreditors.

There are other examples of ACICS' failure to identify compliance problems and enforce its accreditation standards. In 2015, Education Management Company (EDMC), with campuses accredited by ACICS including The Art Institute and Brown Mackie College, settled with thirty-nine State Attorneys General and agreed to forgive $102.8 million in outstanding loan debt. ITT Tech has been sued by the Consumer Financial Protection Bureau, and Attorneys General of Massachusetts and New Mexico and is under investigation by 19 other states. Daymar College employed dozens of unqualified faculty as determined by the Kentucky Council on Postsecondary Education and the Kentucky Attorney General, yet ACICS took no action to rebuke the school or require remedies for students. Daymar subsequently settled with the Attorney General and agreed to provide $11 million in debt relief and pay $1.2 million in student redress. National College of Kentucky, Inc. was fined $147,000 by a Kentucky Court for failing to fully respond to a subpoena from the Kentucky Attorney General. National College of Kentucky later admitted in litigation with the Kentucky Attorney General that it advertised false job placement rates yet ACICS has taken no action against the school.

Career Education Corporation, whose Sanford Brown schools are ACICS-accredited, settled with the New York Attorney General's Office in 2013 for $10.25 million based on findings that CEC fabricated job placement rates. ACICS failed to identify the placement rate inaccuracies and, when CEC's misconduct came to light, failed to terminate or suspend accreditation to any Sanford Brown Schools. In fact, ACICS did not even request that CEC recalculate inaccurate placement rates for several of the affected cohorts.

It should be noted that ACICS has representatives of these problem schools on its board and committees, raising serious questions about potential conflicts of interests and therefore ACICS's ability to impartially evaluate those and other schools. For example, ITT, Corinthian Colleges, and National College all had representatives on the ACICS Board of Directors/Commissioners during the pendency of these enforcement actions or the events leading thereto.

ACICS's accreditation failures are both systemic and extreme. Its decisions to accredit low-quality for-profit schools have ruined the lives of hundreds of thousands of vulnerable students whom it was charged to protect. It has enabled a great fraud upon our students and taxpayers. ACICS has proven that it is not willing or capable of playing the essential gate-keeping role required of accreditors. It accordingly should no longer be allowed to do so.

The state attorneys general appreciate this opportunity to comment and we urge the Department to exercise its appropriate discretion in refusing to renew recognition.

Sincerely,

Maura Healey, Massachusetts Attorney General; Brian E. Frosh, Maryland Attorney General; Thomas J. Miller, Attorney General of Iowa; Lisa Madigan, Illinois Attorney General; Andy Beshear, Kentucky Attorney General; Karl A. Racine, District of Columbia Attorney General; Janet Mills, Maine Attorney General; Stephen H. Levins, Executive Director, Hawaii Office of Consumer Protection; Lori Swanson, Minnesota Attorney General; Ellen F. Rosenblum, Oregon Attorney General; Eric T. Schneiderman, New York Attorney General; Hector Balderas, New Mexico Attorney General; Bob Ferguson, Washington Attorney General.

Mr. DURBIN. Mr. President, ACICS has shown time and again that it is not a reliable authority when it comes to the quality of an education. It is not a responsible steward of taxpayers' dollars.

Follow the money in this case. Think of schools like Corinthian that took billions of dollars out of the Federal Treasury through loans that are assigned to students and paid into Corinthian so they can maintain their operations and pay handsome salaries to their CEO. Now they go bankrupt, and at that point the students of Corinthian have a choice. They can keep their worthless semester hours from Corinthian and keep their debt or they can walk away from both. Well, many of them choose to walk away. When they walk away, they have wasted years of their lives, but even more important, taxpayers have just taken a beating.

These are corrupt capitalist ventures that rely, for 85 to 95 percent of their revenue, directly on the Federal Government. These are not free market entities. These are not private corporations. It is crony capitalism at its worst.

So, today, I want to commend the Department of Education for making its recommendations to NACIQI to withdraw ACICS' federal approval. I hope this is the beginning of the end for this awful organization that has been complicit in defrauding students and the fleecing of taxpayers by major for-profit education companies for way too long.

I encourage the Department to continue to remain steadfast in its current position and to ensure that the students and institutions that ACICS currently accredits are well informed that this process is under way.

Finally, I will say that ridding our higher education system of ACICS is a good first step, but more needs to be done to reform it. In the coming weeks, I will be introducing an accreditation reform bill with several of my colleagues, and I hope this issue will be front and center during the Senate's consideration of a Higher Education Act reauthorization in the next Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, I am here for the 141st time to urge my colleagues to wake up, in this case more specifically to the political influence, particularly the dark money, that perpetuates the climate blockade in Congress.

In 1831, Alexis de Tocqueville traveled to the United States to write his famous ''Democracy in America.'' De Touqueville described our American style of government as ''quite exceptional.'' He wrote about it with affection and with fascination. He may have been the first American exceptionalist.

As the son and grandson of Foreign Service officers, I can personally attest to the importance of America as a paragon of government across the globe, as an aspirational model of self-governance, and as a country that others count on that comes to help, not to loot or conquer.

The roots of our American exceptionalism are found in the three simple words that introduce our Constitution: ''We the People.'' The notion that the government belongs to the people seems unremarkable now, but in its day, it was literally revolutionary.

Today, this proposition is under threat from few very well-heeled special interests and their shadowy front groups, all powered up by the Supreme Court's disastrous 5-to-4 Citizens United decision. In that decision, the Court's conservative bloc overturned long-standing laws of Congress, rejected the common sense of the American people, and gave wildly outsized influence over our elections to a little stable of Big Money interests, creating what one newspaper in Kentucky has aptly called a ''tsunami of slime.''

The evidence is in. The evidence is found in our elections, where the tsunami of outside cash has wiped out previous campaign spending records and created whole new campaign spending categories that never existed before, like dark money. And the evidence is found in this Chamber, where before Citizens United we had a thriving bipartisan debate on climate change. Now we have exactly the silence the polluters want from the Republican side. It wasn't very long after de Tocqueville published his famous book on American democracy that the physicist John Tyndall wrote about excess heat trapped by the buildup of certain gases in the atmosphere. He wrote:

> [T]o account for different amounts of heat being preserved to the earth at different times, a slight change in [the atmosphere's] variable constituents would suffice for this. Such changes in fact may have produced all the mutations of climate which the researches of geologists reveal.

Those ''variable constituents'' to which Tyndall referred included carbon dioxide, methane, and water vapor; he was writing about what we now call the greenhouse effect. We have understood this greenhouse effect for a century and a half. Abraham Lincoln was President when this was published. It is nothing new or controversial in real science, as I think every single one of our major State universities would attest, and it is starting to have a pretty pronounced effect.

NOAA just reported that the Earth passed what they call ''another unfortunate milestone.'' Carbon dioxide concentrations passed 400 ppm at the South Pole last month. That was a first in 4 million years. NOAA also announced that the globally averaged temperature over land and ocean surfaces for May 2016 was the highest for any May in the NOAA global temperature record. This marks the 13th consecutive such month, breaking its monthly global temperature record—the longest streak in NOAA's 137 years of keeping records.

We understand what is going on. So why is Congress stuck, asleep at the wheel? Why? Because since the Supreme Court's decision in Citizens United, the big fossil fuel polluters and their network of front groups—a well-documented crowd now in academic literature and in journalism—have poured money and threats into our politics. Just one group, the Koch brothers-backed front group Americans for Prosperity, openly proclaimed that if Republicans support a carbon tax or climate regulations, they would ''be at a severe disadvantage in the Republican nomination process.'' It would mean their ''political peril.''

The threat is plain. It is funded by the very deep pockets and the highly motivated schemes of the fossil fuel industry, enabled by Citizens United, and much of it is largely hidden from public disclosure. Candidates get it; it is the public that doesn't see what is going on behind the scenes.

Every election since Citizens United has broken spending records, and this year is on track to do it again. Super PACs, anonymous so-called social welfare 501(c)(4) groups, and other outside groups have so far spent nearly $400 million in this election, and we are still nearly 5 months from election day. Politico has reported that donations to super PACs are expected to exceed $1 billion this election cycle. Gee, for $1 billion, what could they possibly want?

We know where this money will go. It will fund an onslaught of the ugly, noxious, negative campaign ads that Americans hate. They hate the negative messages smearing the ad's targets. But they also hate another message. They hate the message that this smear was paid for by some shadowy group that they know perfectly well has no role in their State or in their life and that they usually have never heard of but has suddenly commandeered their TV screen to deliver the smear attack. That secondary payload, which has delivered negative ad after negative ad, is piling up, and its message to the American viewer is clear: This has gotten weird. This has gotten out of hand, and you don't count.

Not surprisingly, Americans are becoming more and more disillusioned with our politics. According to a Bloomberg poll, 72 percent of Americans report being fed up with politics and politicians, and 59 percent feel the ''political system is broken.'' According to a recent Rasmussen poll, three-quarters of voters believe the wealthiest individuals and companies have too much influence over elections, and 8 in 10 agree that wealthy special interest groups have too much power and influence. They are not wrong. That Citizens United decision has even helped make Americans feel by a ratio of 9 to 1 that an ordinary American will not get a fair shot against a corporation in the U.S. Supreme Court.

It is a dirty circle. The strength of America lies in its people. Stoking distrust and contempt for our political system breeds cynicism, and that cynicism gives special interests more influence in their age-old battle to loot the public. That failure also jeopardizes the exceptionalism that has made America an example for good throughout the world—fat chance that we are an example for good on climate change when the fossil fuel industry has done what it has with its campaign spending.

It is a mess, and to clean it up a group of us have assembled a ''we the people'' suite of legislation. The ''we the people'' legislation is a collection of straightforward reforms designed to loosen the grip of big money on our elections, reduce the influence that wealthy special interests have over our government—often behind the scenes—and return America's democracy to its true owners, the American people.

How do we do this? Well, first, we bring transparency back to our elections with an updated DISCLOSE Act, a bill I have introduced in the last three Congresses. DISCLOSE would require every organization spending money in elections, including super PACs and tax-exempt 501(c)(4) groups, to promptly disclose donors who give $10,000 or more during an election cycle and to get the spending information online within 24 hours. It would prevent super PACs from acting as de facto extensions of a candidate's campaign, and it would reform the Federal Election Commission to break the partisan deadlock that cripples enforcement of existing campaign finance laws.

Second, we undo the Court's dreadful Citizens United decision. Citizens United was wrong in treating corporations as if they were people. It was wrong that corporate money will not corrupt. It was wrong not seeing that whatever special interests are allowed to do politically, they can threaten and promise to do, and those threats and promises are corrupting. Finally, it overlooked that a small class of special interests can actually make a bundle buying influence.

The fossil fuel industry, for instance, even when it spends $750 million in one

election, is still making a bundle protecting the massive subsidies that support fossil fuel in this country. According to the IMF, that number is about $700 billion every year in effective subsidies.

So ''we the people'' includes Senator UDALL's constitutional amendment to give Congress the power to once again pass commonsense measures regulating presently unlimited corporate cash in our elections. Finally, ''we the people'' includes proposals championed by Senators BENNET and BALDWIN to stop the spinning, revolving door that so often makes officials beholden to corporate special interests.

It was not long after Alexis de Tocqueville described our unique American democracy and it was about the same time John Tyndall described the basic science of the greenhouse effect that President Lincoln reminded a war-weary nation of the point of all that bloodshed—that ''government of the people, by the people, and for the people shall not perish from the earth.''

Allowing special interests to secretly buy elections and influence government officials gives away an American patrimony that was dearly bought. Make no mistake, without Citizens United, and without the maligned and dishonorable use of its weaponry by the fossil fuel industry, we would have had by now a bipartisan solution to climate change. A faction on the Court that unleashed that new political weaponry, an industry that took shameful and remorseless advantage of it, and a party that has willingly subordinated itself to that influence to keep the money flowing all share the blame for where we are today.

We need to clean this up. The polluters don't just pollute our planet; they are polluting our very democracy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

ECONOMIC GROWTH

Mr. SULLIVAN. Mr. President, for months now I have been coming to the floor to talk about an issue that I know the American people want us to talk about, and that is the economy and the importance of growing our economy. I am highlighting what unfortunately has been a very anemic record of economic growth over the last 10 years, highlighting what is called the gross domestic product for the United States. I have been doing that because certainly the Obama administration doesn't want to do that. When we look at these numbers, we know that these are some of the weakest economic numbers, certainly in the last 7 years—some of the weakest economic numbers in U.S. history. The media doesn't want to talk about it, so I believe it is important that we come and have a debate on the economy because the American people want us to talk about this.

I want to remind my colleagues that the gross domestic product—what we have here on this chart—is really a marker of the health of our economy. It is a marker of progress, a marker of the American dream. Right now we have a sick economy by any measure.

Last quarter the U.S. economy grew at 0.8 percent GDP growth—barely grew.

To put that in perspective, what has made our country great year after year, decade after decade, has been an economic growth rate of about 3.7 percent, almost 4 percent.

If you look at this chart, it has many different administrations. This red line is the 3-percent GDP marker, which is considered OK, not great. Usually, most administrations are above that.

Year after year, decade after decade—Democratic administration, Republican administration—what has made the country great is economic growth. If you look at the Obama years right here, it never even hit 3 percent GDP growth. That is why they don't want to talk about it. When the President does talk about it, he doesn't remind Americans that this is the slowest, weakest recovery in over 70 years, but when he does talk about it, he still points fingers at those who came before him.

After nearly 7½ years, two terms, this economy is his. He owns it, and he should take responsibility for it.

As Michael Boskin, the well-respected Stanford economics professor, put it: ''Mr. Obama will likely go down as having the worst economic-growth record of any president since the trough of the Great Depression in 1933.''

Whether the President owns up to it, there is no doubt—just look at the charts. These are their numbers, by the way. These are the Obama administration numbers. There is no doubt we have experienced a lost decade of growth that is harming not only the economic security of our country and the national security of our country but—most importantly—American families who are experiencing this. The great engine of our economic growth, driven by the American worker, the most productive worker in world history, is now idle because we cannot grow our economy.

We had more evidence of this last month with the abysmal May jobs report. Again, nobody talked about it. The media didn't talk about it. Certainly, the White House didn't talk about it, but we should be talking about it, what happened in May. The report showed, in May, employers throughout the entire United States added 38,000 jobs. That is in an $18 trillion economy that employs 126 million Americans—38,000 jobs is nothing and everybody knows it.

As a matter of fact, today, Fed Chairman Janet Yellen talked about what a dismal report that was in May. In fact, that is the lowest monthly gain since 2010 in terms of jobs, and 2016 has seen the worst employment start since 2009, since the beginning of the Obama administration.

All of this is very bad news for the country, the economy, American families, and American workers. Every economist, including the Fed Chairman today, every pundit, even politicians who understand this issue, know this is a big problem. Yet the President and Members of his administration refuse to level with the American people about what is going on. You didn't hear anyone talking about the jobs report. In fact, right now they are calling our economy the strongest in the world. They are touting the fact that despite this economic jobs report, the unemployment rate actually ticked down. It went down from 5.1 percent to 4.7 percent. They are kind of bragging about that. That is normally good news. The unemployment rate going from 5.1 to 4.7 percent, they are talking that up.

What is going on? What is the real story behind these numbers? Because the people who know these numbers know what is going on. I thought I would try to explain a little bit about why this administration is not leveling with the American people at all. First, having the strongest economy in the world right now is nothing to brag about. The President used to brag about how we were growing more than Europe. That was last quarter. We are not growing more than Europe now. The EU grew at about a 2-percent GDP growth last quarter. As I said, we grew at about 0.8 percent, so even that comparison is not working.

An economist recently stated that bragging about having a strong economy right now globally is ''like having the best-looking horse in the glue factory.'' There is not a lot to brag about there.

Really, the only comparison that matters when the administration tries a spin, ''Hey, we are doing better than Japan or better than Brazil''—the only comparison that matters is this one: How are we doing relative to American history? That is all that really matters, not the spin of how we are doing relative to another country. This is what matters. Again, by any measure, we have been performing very poorly for the last 10 years.

Second, let's unpack the unemployment numbers. The 4.7-percent unemployment rate sounds pretty good, but what the President knows and what his administration knows but will not tell the American people, is that rate from the jobs report last year had numbers behind it that were very worrisome. If we only created 38,000 jobs, then how does the unemployment rate go down from 5.1 percent to 4.7 percent?

This is how. The standard measure of unemployment in this country, the unemployment rate, includes only people who are actively looking for work. That is a term called the labor force participation rate. So if the labor force participation rate goes down, then the unemployment rate will also go down, even if we have a weak economy.

So what happened in May? Why did the unemployment rate tick down to

4.7 percent? That is normally good news. Well, we know it is not because of robust job growth because there were only 38,000 jobs created. Nobody thinks that is robust.

What happened in May—and the White House isn't talking about it—the unemployment rate went down because almost 700,000 American workers quit working, quit looking for a job. Think about that. In 1 month, 664,000 Americans—in 1 month, almost 700,000 Americans who had been looking for work got discouraged. They said there is nothing out there. This economy is so weak so I am quitting even looking for a job. That is why the unemployment rate went down—not a strong economy, not strong growth—discouraged American workers saying: I am done. I am not even going to look anymore. Of course, that is nothing to celebrate, 700,000 Americans completely discouraged who said: I have had enough, I am not even going to try. Think about the families. Think about the workers who made that decision.

Unfortunately, this is one of the dismal, economic legacies of the Obama years. Year after year, as exhibited by this chart, millions of Americans have simply left the workforce. They just quit. This is a chart of the labor force participation rate at the beginning of the Obama administration and now.

Year after year, you can see more Americans say: I have had it. I give up. The economy is too weak. I am quitting, quitting even looking. Again, they are not counted in the unemployment rate.

The labor force participation rate is a rather ungainly term, but what it really measures is the hope of the American worker and his or her family. So we should call it the American worker hope index. Here is the hope index for the American worker.

As you can see by the chart, it has been crashing under this President with his economic policies year after year. Hope has been declining for American workers ever since the President got into office. In fact, it has not been this low since the economic malaise years of President Jimmy Carter.

If you see the right hand here, 62 percent—the Carter malaise years—Reagan, Clinton, Bush, and then the Obama administration years, back almost on par with the Carter years. That is not a strong legacy.

The last time we had an American worker hope index this low was in 1978, the height of the Carter stagflation, when so many Americans were discouraged from even trying to work. That is the legacy we have right now.

The most recent job numbers that came out in May was the day the President gave a speech to a bunch of high school students. To the children, the high school kids, the President painted a rosy picture of the economy. He told them the economy was strong and that he had cut the unemployment rate in half. We know that is not a fully accurate statement. If we had the same labor force participation rate today that we had at the beginning of the Obama administration, our unemployment rate would actually be 9.7 percent, almost unchanged from the beginning of 2009 when it was 10.1 percent.

So the bottom line, the main reason—indeed, almost the sole reason the official unemployment rate has been, ''cut in half,'' as the President said, is because millions and millions of Americans have left the workforce because the hope of the American worker has crashed, and it has now reached the same low levels it did during the Carter years.

The President did also tell these high school students that to create a better, stronger economy, we have to be honest about what our real economic challenges are.

Here, I agree with him. Let's start with an honest assessment made recently by former President Clinton. This is what he said about the Obama economy: ''Millions and millions and millions and millions of people look at the pretty picture of America [Obama] painted and they cannot find themselves in it to save their lives.''

That was former Democratic President Bill Clinton talking about the loss of hope over the last 8 years. President Clinton recently said:

> But the problem is, 80 percent of the American people are still living on what they were living on the day before the [2008 financial] crash. And about half the American people, after you adjust for inflation, are living on what they were living on the last day I—

Meaning President Clinton—

> was president 15 years ago. So that's what's the matter.

That is President Clinton. He is talking honestly about this economy. That is what honesty looks like. Family incomes have declined during the Obama years, wages have been stagnant, and the economic hope of the American worker has crashed to levels not seen since Jimmy Carter.

I close with a few words for the American people as we get to the final months of the Obama administration.

The President is going to make the claim—and some of his supporters and maybe even Secretary Clinton are going to make the claim—that the unemployment rate during the Obama years went from 10.1 percent to 4.7 percent. They are going to talk about this. They are going to make people believe that somehow this is a great accomplishment.

While technically true, what the President is not going to do, what Secretary Clinton is not going to do, is unpack the numbers to actually tell the whole truth because that unemployment rate decline is due primarily to the fact that so many American workers have simply quit looking for work. That is the full truth.

So when you hear this great number—10.1 percent unemployment all the way down to 4.7 percent—the real number is 9.7 percent. The real number is in this index. The real number is that the American workers' hope over the last 8 years has crashed.

So when the President and the White House continue to tell us that everything is fine, that jobs are plentiful, that the unemployment rate has been slashed in half, that our economy is strong relative to other countries, it is very important to look at what they are really saying. We shouldn't believe that. And the vast majority of Americans don't believe it because they are hurting. They are hurting because this economy is hurting. Millions of Americans want to work but can't find a job. Millions of Americans have quit looking for a job. And, as the President says, we need to recognize that fact and to be honest about it. Only then can we do what is one of the most important jobs this Senate can do, which is grow our economy again and create real job opportunities for the millions of American workers who want to work but have been so discouraged they have left the workforce.

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

The PRESIDING OFFICER (Mr. DAINES). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to executive session to consider individually either of the following nominations: Calendar Nos. 357 and 358; that there be 30 minutes for debate only on each nomination, equally divided in the usual form; that upon the use or yielding back of time on the respective nominations, the Senate proceed to vote without intervening action or debate on the nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MORNING BUSINESS

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

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

70TH ANNIVERSARY OF THE FULBRIGHT PROGRAM

Mr. LEAHY. Mr. President, I am pleased to join my friend from Arkansas, Mr. BOOZMAN, in cosponsoring a resolution recognizing the 70th Anniversary of the Fulbright Program on August 1, 2016.