

Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Robert E. Bacharach, of Oklahoma, to be United States Circuit Judge for the 10th Circuit.

Harry Reid, Patrick J. Leahy, Thomas R. Carper, Tom Udall, Robert Menendez, Kirsten E. Gillibrand, Dianne Feinstein, Kent Conrad, Christopher A. Coons, Herb Kohl, Amy Klobuchar, Jack Reed, Ron Wyden, Richard J. Durbin, Jeff Merkley, Richard Blumenthal, Sherrod Brown.

Mr. REID. I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

LEGISLATIVE SESSION

Mr. REID. I ask unanimous consent that the Senate resume legislative session.

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

CYBERSECURITY ACT OF 2012— MOTION TO PROCEED—Continued

Mr. REID. I ask unanimous consent that at 3:30 p.m. today, the Senate proceed to vote on the motion to proceed—or what we can do, we will start the vote at 3:25; and if somebody is going to be a bit late, we will protect them on that.

So I ask unanimous consent we start voting at 3:25 p.m. today on the motion to proceed to S. 3414, the cybersecurity bill.

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

Mr. REID. Madam President, I meant that request to be 3:22 p.m.

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

Mr. REID. All for my friend from Louisiana.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to calendar No. 470, S. 3414, a bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

Harry Reid, Joseph I. Lieberman, John D. Rockefeller IV, Dianne Feinstein, Sheldon Whitehouse, Barbara A. Mikulski, Barbara Boxer, Jeff Bingaman, Patty Murray, Max Baucus, Charles E. Schumer, Bill Nelson, Christopher A. Coons, Tom Udall, Carl Levin, Mark R. Warner, Ben Nelson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3414, a bill to enhance the security and resiliency of the cyber and

communications infrastructure in the United States, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), and the Senator from Utah (Mr. LEE).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "nay."

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

The yeas and nays resulted—yeas 84, nays 11, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—84

Akaka	Franken	Mikulski
Alexander	Gillibrand	Murkowski
Ayotte	Graham	Murray
Begich	Grassley	Nelson (NE)
Bennet	Hagan	Nelson (FL)
Bingaman	Harkin	Portman
Blumenthal	Hatch	Pryor
Blunt	Hoeven	Reed
Boozman	Hutchison	Reid
Boxer	Inouye	Risch
Brown (MA)	Isakson	Rockefeller
Brown (OH)	Johnson (SD)	Sanders
Burr	Kerry	Schumer
Cantwell	Klobuchar	Sessions
Cardin	Kohl	Shaheen
Carper	Kyl	Shelby
Casey	Landrieu	Snowe
Chambliss	Lautenberg	Stabenow
Coats	Leahy	Thune
Coburn	Levin	Toomey
Cochran	Lieberman	Udall (CO)
Collins	Lugar	Udall (NM)
Coons	Manchin	Vitter
Corker	McCain	Warner
Cornyn	McCaskill	Webb
Crapo	McConnell	Whitehouse
Durbin	Menendez	Wicker
Feinstein	Merkley	Wyden

NAYS—11

Barrasso	Johanns	Roberts
Baucus	Johnson (WI)	Rubio
Enzi	Moran	Tester
Heller	Paul	

NOT VOTING—5

Conrad	Inhofe	Lee
DeMint	Kirk	

The PRESIDING OFFICER. On this vote, the yeas are 84, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I will yield to the leader. I thank him, too, for that resounding vote, which seems to me not that the debate is over but the debate is going to begin, and an overwhelming majority of the Members of the Senate want to adopt cybersecurity legislation.

Mrs. MCCASKILL. Mr. President, I come to the floor today to express my concerns about S.3414, the Cybersecurity Act of 2012. Like many of my colleagues, I voted today to allow the Sen-

ate to fully debate and consider amendments to this bill, but I want to make it clear that I have some significant concerns about this legislation and unless improvements are made, I cannot support the legislation in its current form.

At the outset, let me just say, I do firmly believe that the Congress should take action to address our Nation's vulnerability to cyber threats. A cyber attack on our critical infrastructure, whether it be our energy grid, a regional water supply, or our financial markets, could significantly harm our economy, our national security, and our way of life. However, the legislation before us today still needs significant improvement before it can become the law of the land.

I have heard from many in Missouri, including many companies operating or associated with the types of critical infrastructure that will be subject to the provisions of this legislation. They have raised concerns that, as currently structured, S. 3414 would create redundant oversight structures and add additional standards. Moreover, the bill may have the effect of creating a new Federal system that these entities will have to comply with even though many already work within well-established systems related to developing security standards and responding to cyber threats. I cannot support legislation that creates new and duplicative systems that will impact Missouri businesses in a negative way. While addressing the critical national security aspects of improving our Nation's defenses against and ability to respond to cyber attacks, cybersecurity legislation must improve the regulatory scheme and streamline processes for businesses, not the opposite.

Additionally, the carrot-and-stick approach that is created by the current bill would limit the sharing of cyber threat information, in a protected fashion, to those private entities which are participating in the voluntary cybersecurity program the bill would create. Those in the program would have to adopt specific standards and in return would receive relevant real-time cyber threat information. Those not accepting those standards and entering the program would not receive the protections of the program and would be limited in the cyber threat information they receive. Given that sharing such information could potentially thwart a cyber attack, it seems absurd that such information would go unshared because a particular entity was not a participant in the voluntary system. Such a provision inhibits the very type of information sharing we are trying to promote in order to enhance cyber security. In this respect, the carrot-and-stick approach simply does not make sense.

I also remain concerned with the scope of responsibility this legislation provides to the Department of Homeland Security. As we have found throughout the history of DHS, it has

relied heavily upon a contract workforce in order to satisfy its mission. At this time, the Department does not have the necessary expertise it will need to guide a multi-agency, multi-sector council in evaluating whether or not proposed cybersecurity standards are sufficient to address the evolving nature of cyber threats. The decision to place DHS in such a critical role leadership role in regards to many aspects of the cybersecurity scheme proposed by this legislation needs to be revisited.

I have other concerns with this legislation, but these are my chief concerns. I am pleased that both of the Senate's leaders have indicated that this legislation will be subject to a robust amendment process. I look forward to evaluating the amendments brought forward to this legislation, and I am hopeful that the amendments will improve the bill enough so that I can support it. If not, I will oppose the legislation and send it back to the committee process, where more work can be undertaken to generate an acceptable piece of cybersecurity legislation. Whether now or in the future, the Senate does need to pass legislation. But it must be legislation that is well crafted, balanced, and workable for the businesses that will operate under its scheme.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

UNANIMOUS CONSENT REQUEST—H.R. 9

Mr. MCCONNELL. Madam President, shortly I am going to be asking unanimous consent to pass the annual Burma sanctions bill that we have renewed about this time every year for the last decade. The bill was reported out of the Finance Committee on a voice vote last week along with a package of other unrelated measures as part of S. 3326.

Some of my colleagues have some concerns about those other sections. This is unrelated to the Burmese Freedom and Democracy Act. As I indicated, on behalf of my colleagues I have offered—in fact, what I have done in discussions off the floor is offer to find a time to set up a vote on S. 3326 on behalf of my colleagues.

I believe a vote is the best way to resolve the impasse surrounding this bill. However, our friends on the other side have as yet not agreed to that. So in the absence of a vote on the larger bill, I think the best way to proceed is for the Senate to go ahead and pass this important and noncontroversial foreign policy measure today.

This is a very timely issue. These sanctions actually expire today. If we do not act now to extend them, I do not know when the Senate will have a chance to address this important issue. Consideration of this year's Burmese Freedom and Democracy Act comes amidst historic changes that are occurring on the ground in Burma. Aung San Suu Kyi, long a political prisoner of the country, is now actually a member of the Parliament.

The National League for Democracy, once a completely banned organization, now actively participates in political life in Burma. For these reasons and others, the administration, which I support, has taken a number of actions to acknowledge the impressive reforms that President Thein Sein and his government have instituted thus far. The United States has responded by sending an ambassador to Burma. That is the first time we have had an ambassador there in two decades.

The administration also largely waived the investment ban and financial restrictions permitting U.S. businesses to begin investing in that country. However, significant challenges in Burma still lie ahead. Ongoing violence in the Kachin State and the sectarian tensions in the Arakan State reflect a long-term challenge confronting the country related to national reconciliation.

Hundreds of political prisoners remain behind bars. The constitution still has a number of totally undemocratic elements. And the regime's relationship with North Korea, especially when it comes to arms sales with Pyongyang, remains an issue of grave concern to us.

Sanctions with respect to Burma should be renewed in order to provide the administration with the flexibility it needs to encourage continued reforms in that country, to encourage the government to tackle these remaining tough issues. Failure to renew the sanctions could undermine the administration's diplomatic efforts in Burma, which I support, and could send the wrong signal to the Burmese Government that they have done all they need to do. But where are we?

Therefore, the only way I see getting this resolved in time to keep the sanctions from expiring today is for the Senate to go ahead and pass this, and ask the House to pick it up and pass it as soon as they return next week. Hopefully, we can resolve this extremely important issue that other Members have with other sections of S. 3326, completely unrelated to the effort to renew Burma sanctions, and pass those other important trade priorities next week.

In the meantime, this is a terrible message for us to be sending. This is an extremely big issue. It may sound like a small issue; it is a big issue in Burma. Secretary Clinton has been there. I have been there. Senator MCCAIN has been there, and Senator COLLINS. Senator FEINSTEIN has been active on this issue. This is no small matter in a country that we have been hoping would move in the direction of reform, and finally is.

I know there is always a debate about whether sanctions have made a difference. When I was in Burma in January, in addition to meeting with Suu Kyi I was also meeting with government officials. Every single one of the government officials brought up the sanctions. It convinced me that

they must have made a difference. Now, because of the changes that have occurred, the administration and I, who have been involved in this issue for two decades, are in total agreement about the way to handle it, which is to renew the sanctions after which the administration will waive a substantial number of them as a further indication that the sanctions remain there, although not currently operative, because of the changes that have occurred in the country. So I think it is a big mistake to have this important foreign policy matter attached to and stymied by, apparently, differences over other unrelated parts of the measure.

Therefore, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 9; provided further that the Senate proceed to its immediate consideration; all after the enacting clause be stricken and the text of section 3 of H.R. 3326 be inserted in lieu thereof.

For the information of Senators, as I indicated, the Burma sanctions language expires today. This would avoid that.

So I finally ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. (Mr. BLUMENTHAL). The Senator from Montana.

Mr. BAUCUS. Mr. President, reserving the right to object, I very much appreciate and admire the efforts of the Senator from Kentucky to keep proposing sanctions on Burma. In fact, the Senator will remember that 3 or 4 months ago I went out of my way to praise the Senator when he stood up for Burma. In fact, he may remember his press office called my office to say thank you. Gosh, Senator BAUCUS thanked the leader, and I meant it. I very much admire the effort and the way the Senator has undertaken to maintain these sanctions.

We are all very proud of Aung San Suu Kyi for winning the Nobel Prize, in London, when she visited Europe not long ago. I remember watching her on television. She has done so much for her country and stood so much for the people of Burma. It is astounding. I have not had the privilege of meeting her personally, but I have watched her from afar and with great admiration and not only would thank her but again thank the Senator for his efforts.

One can say the other matters are unrelated, but one could also say the Burma issue is riding along with the AGOA bill. There are thousands of African women who have lost their jobs because we have not acted on the AGOA bill, and they tend to be single moms—thousands—because they can't get orders to sell in the United States. Consequently, jobs in the United States now are in jeopardy because the AGOA bill has not been extended.

It is true the AGOA bill does not expire until the end of September. That

is true. However, as a practical matter, these women have lost their jobs already because American companies are not taking orders from African countries that are providing the apparel that are otherwise provided for under the AGOA bill. It is a huge issue for those African women who have lost their jobs as well as a lot of American companies that are in jeopardy because they can't receive the apparel from the African companies if this is not extended.

I might say, too, the DR-CAFTA bill is similar. That puts in jeopardy a lot of jobs in South Carolina and North Carolina. So in a certain sense it is a jobs bill. Both these bills are important. They are very important. This package was put together and agreed to by Senators on the committee, Republicans and Democrats both. It was agreed to by leadership offices, both sides. We worked hard, as the leader often does, to get consensus around here. So this was the thought, to put the bills together, and all Republicans agreed.

There was one Senator who said he had a problem with one of the pay-fors, and, frankly, it is a pay-for this body has adopted many times. That Senator himself has voted for this pay-for many times. It just seems to me, if we break up the package, then the package is broken and it puts in jeopardy those other provisions because Senators will want to offer amendments. The Senator from Kentucky well knows, once we start going down that road, things get hung up around here; the main point being these are both very important bills, and the other main point being it was agreed to. This package was agreed to all the way around, and I think at this point it does not make sense to break it up.

So I object.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, if I may, I believe the Burma sanctions bill has been renewed without additional matters attached to it for some 10 years now on an annual basis. I am perplexed as to why this year it was turned into a package.

I agree with the distinguished chairman of the Finance Committee that it was agreed to. But there is a dispute between the chairman of the Finance Committee and another member of the Finance Committee who is on the floor, and Senator COBURN can speak for himself. I might say, I don't have a dog in that fight. As far as I am concerned, that is another matter. No matter how important that may be, I doubt a failure to pass the other measure, which doesn't expire until September, creates a major potential foreign policy problem which could well be created by the Burma sanctions bill expiring later today.

I will not argue the rest of the bill is important or unimportant. I frankly don't know much about the rest of the bill. I do know something about the

Burma sanctions bill, having offered the original bill 10 years ago and having been on the floor as we renewed it annually during that period, and I am pretty confident this will be perceived in Burma as a problem. It seems to me it is a completely avoidable problem.

As to the rest of it, the Senator from Oklahoma is here and he can speak for himself, so I defer to him and to the chairman of the Finance Committee to discuss the balance of the bill. But it would have been my hope, had the chairman of the Finance Committee not objected, since it was cleared on my side—and it was cleared on my side, regardless of previous understandings about putting the package together, by the ranking member of the Finance Committee, Senator HATCH, and by Senator COBURN—to split the Burma sanctions bill off and pass it free-standing today on a voice vote.

So with respect to the consent agreement I offered, which was objected to, I want to make sure everybody understands there were no objections to it on the Republican side of the aisle.

The PRESIDING OFFICER. Objection is heard to the request of the Republican leader.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I do not want to belabor the point. The Obama administration is opposed to splitting the package apart. They are in favor of keeping the package as it is, and I think for good reason because the administration favors both Burma as well as AGOA and DR-CAFTA. That is the reason. They are both very important. It is for that reason I think it makes sense.

The Senator is correct. It is very easy to resolve this thing by proceeding with Burma and AGOA. But if the leader wants to keep talking, I am more than willing, over the next week, to see if there is another resolution to work this out.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I would just ask a question of the Senator. What I hear is that the Democratic administration and Democratic Senators are opposed to passing the Burma sanctions bill today free-standing? Is that what I hear the chairman of the Finance Committee saying?

Mr. BAUCUS. That is not what the Senator heard me say.

Mr. MCCONNELL. Then why did the Senator object to the request?

Mr. BAUCUS. Because the administration and I want them both.

Mr. MCCONNELL. But the Senator can't get them both unless he can work this out with my good friend, the Senator from Oklahoma, who is on the floor and who may want to address this matter.

Mr. BAUCUS. I am more than willing to sit down and try to work this out, but at this point I think any attempt to split them out is to jeopardize the AGOA bill, and as I mentioned earlier, there are already thousands of women

who have lost their jobs in Africa because of our delay in passing AGOA.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Let me make sure I understand where we are. The consent agreement to pass the Burma sanctions bill today, before it expires, is clear on this side of the aisle—clear. The chairman of the Finance Committee has announced, to my surprise, that the administration does not favor allowing Burma sanctions to pass today because it is attached to something related to other matters.

So make no mistake about it, we have, for the first time in the history of this issue, turned it into a partisan matter. We have spoken with one voice in America relating to Burma, under administrations of both parties and Senates of both parties. Yet today, for the first time, we have a partisan split over an issue about which America ought to be speaking with one voice.

I basically have said all I have to say. I do want to hear from Senator COBURN. I know he has strong feelings about the other part of the measure about which I am basically not familiar.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, first of all, I would like to say I support all three of these measures, in terms of their passing. What I don't support is continuing the habit that has put this country \$16 trillion in debt.

To clarify, as a member of the Finance Committee, if one reads my opening statement at that hearing, in that markup, I objected to this bill on the basis of pay-fors. I offered two separate amendments that, on the floor, everybody would agree are germane because the money to pay for the \$200 million comes out of trade areas. Yet they were rejected as nongermane by the chairman. So they weren't offered because he said he would reject them. So to create the impression there was no objection to the pay-for in this bill and that everybody agreed is inaccurate, to say the least.

I called Senator COONS of Delaware, who is interested in this, and I called Senator BAUCUS when this came up, and I told him I have a plan so we can get this all done this week. I was willing to lose a vote on the amendment to have an opportunity to offer the amendment and give my side of the story by splitting these two so the House could pass it. The House has now gone home. Burma sanctions are no longer available to be passed, except if we were to do something extraordinary with the House, which I understand from the Speaker can happen. So Burma sanctions could happen this week.

But I wish to go back to the more important point. Regardless of whether I voted for something in the past, using the type of pay-for that is in this bill is what I call the Wimpy mechanism: Wimpy drives up to Wendy's and orders

a hamburger, and when he gets around to the window he says: Don't worry about it, I will be back in 10 days to pay for it. What we have done is use custom user fees over 10 years to collect enough money to pay for \$200 million.

With the waste that is in this government, for us to use a 10-year pay-for on something that will be expended over 3 years means we are not capable of addressing the much bigger issues in front of our country. If we can't find \$200 million in a \$3.6 trillion budget, we are unqualified to be here.

What I would say to my friends and my colleague on the Senate Finance Committee is that somebody has to start saying no. I would remind everyone of a lecture I got from Senator Pete Domenici on a land bill about 2 years ago. He said: We have always done it that way. I said: You know what, you are right, and that is why we are in trouble. So the financing mechanism on this bill denies the situation we are in and charges out over 10 years custom user fees to pay for it.

No other American business, no other company, no other family gets that kind of luxury, especially when they are in debt at 105 percent of their GDP. If we look at where we are, the average American, what we can say is that we are taking in \$53,000, we are spending \$73,000, and what we actually owe is \$380,000. We can't keep doing that. That is how it would relate to the individual family in this country.

The objection was not on the bills. There was no lack of effort on my part to reach out and solve this problem before now and now the minority leader has offered a way to solve the problem on the sanctions for Burma and it is objected to. So not only do we not get to offer amendments in committee, we do not get to offer amendments on the floor. The one thing we need to accomplish today we are not going to accomplish because we don't want to allow amendments.

Because we want to keep doing it the way we have always done it. And the way we have always done it has bankrupted our country and stolen from our children and grandchildren. It is not acceptable anymore.

That is the truth. Everything else is the game that Washington plays. And I will tell my colleagues, I am still willing to work on this. I have a commitment to the Senator from Delaware that next week, if this comes up, I will be the first to offer that amendment and get it out of the way, taking a very short period of time with the Senate. But I want a recorded vote of the Senators in this body that they want to steal the customs user fees for 10 years for just a \$200 million pay-for. If that is what you really want to do, then vote that way. But go out and defend it instead of taking something this administration has recommended we cut—which is what I am using to pay for it, something this administration has recommended to pay for it—and vote

against what your own President says—here is something we need to eliminate.

I don't get it. The American people don't get it. No wonder we have a 9-percent approval rating.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. Mr. President, I appreciate the opportunity to briefly contribute what I can to this debate.

One of the great honors, as the Presiding Officer knows, in being a freshman is the opportunity to preside. I had the opportunity to preside when the Republican leader came to the floor and spoke to Burma sanctions. So I just wanted to say to the Republican leader that because of that speech, I have familiarized myself with the issue of Burma sanctions that he spoke to earlier. I do think it is important that we move to it. I do think it is important to move forward on it.

But the Republican leader made the comment earlier that he doesn't much understand the other part of the bill, which is AGOA, the African Growth and Opportunity Act. I choose to stand briefly to speak to that because I am the chair of the African Affairs Subcommittee of the Senate Foreign Relations Committee.

Senator ISAKSON and I joined with Congresswoman BASS and Congressman SMITH in twice receiving dozens of Ambassadors from across the continent 3 months ago and 9 months ago as they expressed their grave concern about the thousands of mostly women all across the continent who are losing their jobs as we delay.

The AGOA reauthorization expires in September, and I am grateful for Chairman BAUCUS and for his vigorous pursuit of renewal in a timely fashion. AGOA needs to be renewed promptly, not in September. In part, I believe this is why the administration has insisted on holding together Burma sanctions and this AGOA reauthorization—it is because of the urgency of getting AGOA reauthorized.

It dates back to the Clinton administration. It was first signed into law a dozen years ago. I think it has real importance for our view in Africa, for how the United States is viewed in Africa, for our bilateral relations with more than a dozen countries. I would be happy to answer questions about it.

But we have three different issues here: the concerns the Senator from Oklahoma has raised about the pay-for, and I respect his concerns about budget and budgetary discipline and dealing with our deficit; the concerns the Republican leader has raised about Burma and about sanctions and about our ongoing role as a global leader in pressing for the liberation of people and process in Burma; and the concerns many other Senators and I have shared about timely reauthorization of the African Growth and Opportunity Act. Unfortunately, the three of them intersect in a way that today is preventing us from moving forward.

It is my hope that the Republican leader, the chairman of the Finance Committee, the Senator from Oklahoma, and I can sit down and craft some responsible compromise that allows this to move forward because, if my understanding is correct, it is the concerns of the Senator from Oklahoma that are preventing us from moving forward at this point, and it is the administration's concerns that are preventing breaking apart the Burma sanctions and AGOA sanctions. And there is a third provision relating to CAFTA, if I am not mistaken. So if we could work together in a way that finds a responsible path forward, it is still possible.

There is bipartisan support in the House for the passage of this package. In fact, I believe they were prepared to pass it by unanimous consent earlier this week and only hesitated to proceed because they heard there was a hold here in the Senate.

I would like to work together in a way that can demonstrate to the people of Burma, to the people of Africa, and to the people around the world that this greatest deliberative body on Earth can still work out issues of this scale in a timely fashion. So I offer my willingness to work together to find a path forward either tonight or in the week ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I don't mean to belabor the issue. I see the Republican leader has left the floor. I have just a couple of points.

One, I don't want the impression to be left here that this is a partisan matter. I don't want the impression to be left here that one party favors Burma sanctions and the other doesn't, and the same with respect to AGOA provisions. The fact is, these are both totally bipartisan. Both political parties favor these measures. It is just a matter of working out a way to pass them.

The Senator from Delaware has made a very good point, so let's see if we can work things out within the next couple or 3 days.

The Senator from Oklahoma makes a very valid point, too; that is, sometimes we pay for measures around here with measures that take several years to actually pay for. It is a common practice around here. And to say we have done it once does not necessarily mean it is right.

But I say to my good friend from Oklahoma, who has voted for this kind of measure 11 times, by my count, and once even on the Burma bill, that when we work over the next several weeks and next several months on resolving the fiscal cliff and tax reform, it will be a good opportunity to find ways to reduce our budget deficits, both spending and revenue, and an opportunity to address it in a way that does not do violence to them and that respects the concept the Senator from Oklahoma was mentioning. He has mentioned a

concept that applies not just with respect to customs user fees but for a lot of tax provisions around here, and I think it is something we should talk about and figure out how we want to handle it. But in the meantime, I just suggest that—let's keep talking. There are a few days left here before we leave for the August recess.

I thank my colleagues for working together to try to find a solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

GUOR MARIAL AND THE 2012 OLYMPICS

Mrs. SHAHEEN. Mr. President, tomorrow the attention of the world will turn to London as we witness the opening of the 2012 Summer Olympics. Over 10,000 athletes representing 204 nations from around the world will be competing in hundreds of sporting events at the games of the 30th Olympiad. Here in the United States, we will be cheering on the 529 U.S. athletes as they look to bring home the gold for the United States of America. The Olympics no doubt will have countless stories of triumph and disappointment, competition and camaraderie.

I rise today to share the remarkable story of one particular athlete who will be competing this year. His story is one of inspiring triumph of character and spirit. But until just days ago, this Olympian had no flag to compete under. This story is about a talented young runner named Guor Marial whose mere survival in southern Sudan defied the odds. Having escaped the bloodshed and violence in war-torn Sudan, Guor found his way to my home State of New Hampshire as a teenage refugee. Who could have imagined that in just over a decade, Guor would be applying for U.S. citizenship and traveling to London to compete in the Olympic marathon?

Guor was born in a town in what is now part of the fledgling country of South Sudan. Many of his family and friends, including his brother, were killed at the hands of Sudanese security forces. Many more died of starvation or disease brought on by the violence and unspeakable crimes committed by these Sudanese forces.

Before escaping Sudan, Guor was a victim of violence on numerous occasions. As a child, he was kidnapped from his hometown and enslaved as a laborer before eventually finding a way to escape and return to his family. Guor was severely beaten by the Sudanese police and had to spend days in a hospital to recover. Finally, he was able to flee to neighboring Egypt and eventually to the peace and safety of New Hampshire as a refugee seeking asylum.

Guor arrived in my home State of New Hampshire in 2001, almost exactly 11 years ago. He remembers that day well and still considers New Hampshire his home. He lived in Concord, the State capital, moving in with the families of his friends, teammates, and his cross-country coach for 2 years in order

to graduate from high school. The contrast between Guor's former life and his new life is stark. In Sudan, he was running in fear for his life. In New Hampshire, he was running for the joy of athletic competition and to be part of a team.

Amazingly, in only his second official marathon, Guor ran fast enough to qualify for the 2012 London Olympics. Given his unique situation, however, it looked as if the bureaucracy would triumph over his bravery and that Guor might not be able to compete because according to the rules of the International Olympic Committee, permanent residents of a country are not permitted to compete on that country's team. As a result, Guor can't compete under the American flag because he is not yet a full citizen. In addition, Guor can't run for the newly recognized country of South Sudan because it is such a new country, it doesn't yet have an official Olympic committee.

The International Olympic Committee suggested that Guor compete as a member of the Sudanese team, and the Sudanese Government extended him an invitation. But Guor rightfully refused, explaining that running for Sudan "would be a disappointment and an embarrassment to me and the people of South Sudan who died for freedom, including my brother." Guor was not comfortable running on behalf of the country that tortured and murdered so many of his family members. That solution would have been cruel and unacceptable.

Fortunately, after some pressure by Refugees International and other friends of Guor who wrote to the International Olympic Committee on his behalf, we received the great news this week that the IOC executive board has decided to make an exception for Guor. He will run in the marathon as an independent Olympic athlete under the great Olympic flag. I want to thank the International Olympic Committee for this very appropriate ruling. In addition, I want to thank the U.S. Olympic Committee, the U.S. Department of State, and the other friends of Guor who worked so hard to make his participation possible.

As he runs under that five-ringed flag, long a symbol of hope for peace in our world, Guor will run with the support of his family, his New Hampshire supporters, Americans everywhere, and his new country, South Sudan. I have a feeling that such support might help him run even faster.

We are so proud of Guor in New Hampshire and proud that in the United States someone who has lived through such tragedy and adversity can start a new life and rise to such incredible heights.

Scott Hamilton, an American Olympic gold medalist, once said, "Most other competitions are individual competitions. But the Olympic games is something that belongs to everybody." No matter the outcome in London, the story of Guor Marial and the adversity

he has overcome belongs to everyone. Win or lose, he will stand as a lasting inspiration for people around the globe and as a tribute to the greatness that is the United States of America. I look forward to welcoming Guor home from the Olympics as a winner, regardless of the outcome of the marathon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

COLORADO DROUGHT

Mr. BENNET. Mr. President, I am here tonight on a different topic than the Senator from New Hampshire, but I wish to congratulate her on her fine work here. I know she doesn't need or wouldn't want me to say that, but the people of New Hampshire are so lucky to be represented by her. And this is exactly why—a reminder that our Olympic athletes are about to start, I hope, winning gold medals. I suspect they will win the most in this summer's Olympics. We are looking forward to that.

The Senator mentioned marathons, which brought to mind what I want to talk about tonight, which is the farm bill—an elegant segue from one marathon to another. I want to talk about it in the context of the severe drought that is facing Colorado and all of rural America, and I want to acknowledge the administration's ongoing efforts to provide Coloradans with disaster relief during this difficult summer of fires and drought.

We need to pass a 5-year farm bill as quickly as possible to address the challenges we are seeing in farm country. We have done the work to get an agreement on the Senate bill. In fact, we passed the 5-year farm bill in this Senate. It was a strong, bipartisan bill. I would like to thank the Senator from Michigan, DEBBIE STABENOW, and the ranking member of the committee for their incredible leadership in working together, both side of the aisle, never in a partisan way, to produce among other things the only bipartisan deficit reduction that any committee, House or Senate, has produced in this Congress—\$24 billion of deficit reduction that has been agreed to by Republicans and Democrats. It ends direct payments to producers, which is one of the most substantial reforms we have seen in agriculture policy in a long time, and it strengthens the conservation title of the farm bill, which is very important to my State and to the West.

Colorado has a \$40 billion agriculture sector that extends to all corners of our State. Farming and ranching are two things we do extremely well. The Senator from Iowa is here tonight, and his farmers do it extremely well in Iowa as well.

Producers in Colorado and nationwide are experiencing the worst drought in 50 years. While Colorado is certainly no stranger to water challenges, this year's growing season has been particularly tough—to put it mildly.

According to the U.S. Drought Monitor, nearly our entire State is designated as an extreme drought area. This designation means we are experiencing major damage to crops and pastureland, as well as widespread water shortages. While this designation tells us a lot, we only need to ask the farmers and ranchers about how the dry conditions are threatening their operations.

I met recently with a group of corn growers from eastern Colorado. Take a look at what these farmers are up against. This is Steve Scott's cornfield 18 miles southeast of Burlington, CO, a town of 4,200 people near the Kansas border. This crop—and many others in the region—has withered under long stretches of high temperatures with little or no precipitation to help.

The Department of Agriculture reports that 50 percent of Colorado's corn production is in either poor or very poor condition. The drought has also taken a significant toll on our cattle producers. Colorado is one of America's top beef producers. Right now 75 percent of pastureland in Colorado, approximately 900,000 acres—and I am not sure how that measures up to the Presiding Officer's State, but it is pretty close to that size—is rated as either poor or very poor in condition. Dry pasture and feed shortages have led ranchers to liquidate their herds early, well before they have realized their full size and value.

The Greeley, CO, auction producers' barn is seeing double the sales activity right now as compared to the same time last year because ranchers are selling their cattle below full weight and maturity. They are losing anywhere from \$200 to \$400 a head.

Next week Carl Hansen of Livermore, CO, is selling 160 of his steers and 90 heifers. On average, each animal will be sold 150 pounds underweight due to the drought conditions. If beef is selling at \$1.50 a pound, that is \$56,000—actually a little more than that—of lost revenue for Carl Hansen and his family.

The consequences of this drought extend well beyond farm country. The damage to our farms and ranches affect other sectors of the economy—from transportation to energy, from banking to retail. We all know there is nothing Congress can do to stop the drought or prevent the next one from coming, but what we can do is give our farmers and ranchers the tools they need to manage this drought and plan for the future by passing a 5-year farm bill.

We hear a lot about uncertainty in these two Chambers. I can't imagine a set of circumstances creating more uncertainty in a difficult situation than that.

Now we hear that the House leadership is planning a 1-year punt on this whole conversation, one more expression that Washington, DC, has become the land of flickering lights, providing very little opportunity for people to be able to plan and have predictability.

What is wrong with the Senate-passed bipartisan farm bill that had

the support of 64 Senators? Sixty-four Senators, Democrats and Republicans. Some people voted against it because they didn't think it was adequate to their region, but this was not a partisan vote. Neither the majority nor the minority vote was a partisan vote. This was the Senate operating as the Senate is meant to operate.

A 5-year bill provides our agriculture community with much needed certainty and predictability, but now it is being held up in the House by politics. Let's be clear: No one is pretending that the farm bill can correct bad weather. Our producers are not waiting on the farm bill to do what they do best. Colorado will continue innovating and increasing productivity, but the last thing on Earth they need is to have Washington's unfinished business hanging around their necks.

A 5-year farm bill will provide producers with a set of tools for managing through this drought and planning for the future. The 1-year bill being discussed over in the House by the leadership doesn't recognize—or is unwilling to recognize—the agriculture community's need to do long-term planning.

Among many other important provisions, the Senate farm bill contains revamped risk management programs like crop insurance, which is what I heard was needed by our farmers, and improvements farmers requested to help manage a severe drought exactly like the one we are going through right now. This is the point of that provision. A 1-year bill doesn't have any of those provisions.

Corn farmers on Colorado's eastern plains could lose 40 percent or more of their revenue this season. We need these reforms and the predictability of the Senate bill. Our bill also contains permanent disaster programs that provide responsible assistance to producers in need. Some of these programs, such as the livestock disaster program, expired in September 2011, almost a year ago. If Congress takes the easy way out and does a 1-year extension, our livestock producers will get no relief—none. This means no disaster assistance for ranchers whose pasture is too dry to feed their cattle.

Who is going to explain to the people selling at the Greeley auction barn why this is not a priority for our Congress in the middle of the worst drought in decades?

The House Agriculture Committee passed a 5-year farm bill with a strong bipartisan 35-to-11 vote. Again, this is not the partisan dysfunctionality we talked about for so many months on this floor. We have two bipartisan bills: One was passed out of committee on the House side with broad bipartisan support, and one was passed on the Senate floor with broad bipartisan support. It is not surprising that I am not the only person who is calling for a long-term extension—a 5-year extension. There are 79 House Members, including 41 Republicans, who wrote to the Speaker last week asking him to

bring the long-term farm bill to the floor.

Mr. President, I ask unanimous consent that the letter signed by 79 House Members be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, July 20, 2012.

DEAR SPEAKER BOEHNER, MAJORITY LEADER CANTOR, DEMOCRATIC LEADER PELOSI, AND DEMOCRATIC WHIP HOYER: Many current farm bill policies expire on September 30, 2012. The House Agriculture Committee passed H.R. 6083, the Federal Agriculture Reform and Risk Management (FARRM) Act, or the 2012 Farm Bill, on July 12th with a strong bipartisan vote of 35-11. While by no means perfect, this farm bill is needed for producers and those who rely on sound agriculture policy and nutrition programs during difficult economic times.

The House Agriculture Committee has done its work and we now ask that you make time on the floor of the House to consider this legislation, so that it can be debated, conferenced, and ultimately passed into law, before the current bill expires. We need to continue to tell the American success story of agriculture and work to ensure we have strong policies in place so that producers can continue to provide an abundant, affordable and safe food supply.

We all share the goal of giving small businesses certainty in these challenging economic times. Agriculture supports nearly 16 million jobs nationwide and over 45 million people are helped each year by the nutrition programs in the farm bill. We have a tremendous opportunity to set the course of farm and nutrition policy for another five years while continuing to maintain and support these jobs nationwide.

The message from our constituents and rural America is clear: we need a farm bill now. We ask that you bring a farm bill up before the August District Work Period so that the House will have the opportunity to work its will. We ask that you make this legislation a priority of the House as it is critically important to rural and urban Americans alike.

We appreciate your consideration of this request and look forward to working with you to advance the FARRM Act.

Mr. BENNET. They wrote:

The message from our constituents and rural America is clear; we need a farm bill now. We ask that you bring a farm bill up before the August District Work Period.

They went on to say:

We ask that you make this legislation a priority of the House as it is critically important to rural and urban Americans alike.

Representative RICK BERG, a Republican from North Dakota, took to the floor last week and said:

Now is the time for the House to act, the time for the farm bill now.

JO ANN EMERSON, a Republican Congresswoman from Missouri, told reporters that "there are problems with my farmers who need to make planning decisions."

We are seeing that exact same uncertainty plaguing our farmers and ranchers in Colorado. Yet here we are again. We have seen this before in Washington. We are pretty good at starting conversations, but we are not very good at finishing them. We are kicking the can down the road once again, but

this is the farm bill, which is a bipartisan effort that rarely, if ever, has been used as a political football around this place.

Three days ago David Rogers wrote an article, which I think accurately describes our dilemma. It was in *Politico*.

Mr. President, I ask unanimous consent that this article also be printed in the *RECORD*.

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

[From *Politico*, July 23, 2012]

CONGRESS DELAYS FARM BILL AS DROUGHT SPREADS

(By David Rogers)

To understand how far this Congress will go to kick the proverbial can down the road, consider the farm bill—yes, the farm bill.

In the midst of a severe drought, the House Republican leaders are proposing to walk away from farm states and decades of precedent by not calling up the new five-year plan before the current law expires Sept. 30.

Whatever its flaws, the bill promises \$35 billion in 10-year savings from exactly the type of mandatory spending that Congress promised to tackle in last summer's debt accord. But rather than disrupt its political messaging, the GOP would put it all at risk by delaying action until after the November elections.

There's little institutional memory left in the Capitol—or perspective on the accumulation of cans rolling down the road these days. But the farm bill delay is new ground for any Congress.

Never before in modern times has a farm bill reported from the House Agriculture Committee been so blocked. *POLITICO* looked back at 50 years of farm bills and found nothing like this. There have been long debates, often torturous negotiations with the Senate and a famous meltdown in 1995 when the House Agriculture Committee couldn't produce a bill. But no House farm bill, once out of committee, has been kept off the floor while its deadline passes.

If pushed into November's lame-duck session, farmers will join Medicare physicians whose pay will be running out, idled workers worried about jobless benefits, and very likely, millions of families faced with expiring tax breaks.

For all the backslapping over the recent transportation bill, that measure expires in just 15 months. The Democratic Senate no longer even tries to do 12-month appropriations bills. Already in mid-July—when the floor used to be humming—the “smart money” is plotting a stop-gap continuing resolution to get to November or beyond.

Such a CR was once treated as a backstop by the Appropriations committees. Now the practice is so prevalent in all areas of government that the letters might stand for “Congress Retreats.”

“It's to the point where you almost think you should vote against extensions because they are extensions,” Rep. George Miller (D-Calif.) told *POLITICO*. “If you were looking at the United States from outside, you look and you say, ‘What are these people? Fools?’”

Elections do matter, and there's some logic to letting the voters reshuffle the deck before tackling tough issues. But that's not what's happening here.

The presidential campaigns are already being criticized for lacking all substance. But whoever wins, neither President Barack Obama nor Mitt Romney has shown any appetite for this debate—or even knowledge of farm issues.

The Senate has already approved its farm bill; even if Republicans were to win control in November, the GOP's majority will be so narrow that Democrats will be able to block wholesale changes. In the House, the only certainty about a lame duck is there will be even more unhappy people hanging around.

No, the real reason for Speaker John Boehner (R-Ohio) to delay the farm bill is not because there will be better answers after the election. It's because he doesn't like the answers he sees before.

The farm bill came out of the House Agriculture Committee on a strong bipartisan 35-11 vote July 12. Nearly a year after the August debt accords—and eight months after the November collapse of the deficit supercommittee—it is the closest this Congress has come to enacting real deficit reduction from mandatory spending.

But it's not perfect, and Boehner's Republicans are split regionally and ideologically, with the right demanding still greater savings and a more free-market approach to agriculture policy.

Given Democratic concerns over the depth of the food stamp cuts already made, Boehner says there are not 218 votes for passage. Rather than wrestle with this problem, it's easier to run out the clock with symbolic anti-red tape, anti-tax votes on which the GOP is more united.

Senate Democrats have kicked their share of cans as well. First no spring budget resolution. Then no summer appropriations debate. All under the watch of a majority leader—Sen. Harry Reid (D-Nev.)—who served for years on the Senate Appropriations Committee.

Yet there's something bigger about the farm bill.

Perhaps because it is a five-year event and so fundamental to one bright spot in the economy. Or maybe it's the pounding drought across the country that gives pause. Farmers live by nature's calendar, not continuing resolutions. And by failing to act, Congress can seem even more detached from the real lives of everyday people.

Changes in the Washington press foster this detachment. Major newspapers are more prone to editorials than real reporting on the debate. Regional papers, once the backbone of farm coverage, have closed their bureaus. In the new Capitol trend, some of the most experienced agriculture reporters report to clients—not the public.

The biggest irony may be Boehner himself. The speaker, after all, spent his early years on the Agriculture Committee and prides himself on being a “regular order” and pro-chairman leader. He chastises Obama regularly for doing precisely this: kicking the can down the road.

As if to remind him, Rep. Rick Berg (R-N.D.), a Boehner favorite now running for the Senate, took to the floor Thursday just minutes after the speaker had again ducked farm bill questions at his weekly news conference.

“Now is the time for the House to act,” Berg told his colleagues. “The time for the farm bill is now.”

The biggest Republican divisions are also where the greatest savings lie: the commodity and nutrition titles.

Both the House and Senate put an end to direct cash payments to farmers, a long-demanded reform saving about \$5 billion a year. The dispute is over how much of that money is reinvested in new subsidies—and where.

The Senate bet heavily on a new shallow-loss revenue-protection program geared to Midwest corn and soybean producers. The House whittles this down to make room for more of a traditional countercyclical program that protects against deep losses but is

keyed to government-set target prices—a taboo for free-market types.

Southern rice, peanut and wheat producers stand to do far better under the House approach, but the two bills appear to lunge in opposite regional directions. Corn and soybean growers can almost lock in profits in the early years of the Senate plan. At the same time, the House cotton package costs nearly 20 percent more than what was already viewed as a rich Senate deal. And a \$14 per hundredweight target price for rice is higher than what many other crops got, when measured against government data for production costs.

The 13 Southern states are the backbone of the House GOP's majority, contributing 102 votes or more than 40 percent of the conference. This is also where the lines are clearest, not just for crops but also food-stamp savings.

House Agriculture Committee Chairman Frank Lucas (R-Okl.) and the committee's ranking Democrat, Minnesota Rep. Collin Peterson, had hoped to thread this needle by offering a new national eligibility standard for the nutrition program somewhat to the right of Texas's food stamp rules. But for the majority of Southern states, it meant a modest increase from 130 percent to 140 percent of poverty as the high-end income cap—and so it ran aground in the committee.

Peterson, refusing to be discouraged, has plunged back into the fray, trying to find some compromise on food stamps and still hoping that Boehner will relent on moving the farm bill this summer.

“Collin is a CPA by training. He's a numbers guy. He's very focused as a Blue Dog about the budgetary consequences of our actions,” Lucas told *POLITICO*. “I think he's basically on the right track as he's described it to me. The question really comes down to: will we wind up with floor time?”

And himself?

The morning after his late night markup, Lucas sought out Boehner and Majority Leader Eric Cantor (R-Va.) face to face. “They thanked me, smiled at me and left it at that,” Lucas said.

He himself is worried—like Republicans in the Senate—that simply passing a short-term extension of the current farm law will not be an easy matter in September. Having spent the better part of a year saying direct payments must end, will Congress want to extend them?

“I'm trying to maintain a good solid working relationship with my leadership,” Lucas smiles. “I'm trying to be a positive advocate for why I believe our bipartisan bill deserves floor time.”

“I've alerted staff to be ready to go on a moment's notice, and I will also tell you there are external events that could impact the situation. If this drought continues in the West and Midwest, it could drive members to want to see some action.”

Mr. BENNET. To quote Mr. Rogers:

Never before in modern times has a farm bill reported from the House Agriculture Committee been so blocked.

Never before in modern times. I suspect it is true in ancient times as well, but it has certainly been true in modern times. Rogers tells us that he “looked back at 50 years of farm bills and found nothing like this.” He continues:

Farmers live by nature's calendar, not continuing resolutions.

I could never have said it so eloquently myself. He also said:

And by failing to act, Congress can seem even more detached from the real lives of everyday people.

I would not have thought it was possible that this place could seem more detached from the everyday lives of the American people than it already appears to be. We found a way of doing that, and that is by failing to pass this bipartisan farm bill through the Congress in a timely way that is essential for people who are suffering through this kind of drought.

I think Mr. Rogers' observation is exactly right, and I have been on this floor many times before saying the people at home in Colorado—Republicans, Democrats, and Independents—don't identify with the cartoon of a conversation that we are having in Washington, DC, right now. I can't think of a clearer example than the failure to act on this bipartisan piece of legislation. This is legislation that would immediately help people all across our country, all across America, who are struggling today.

Mr. President, think for just a moment about our farmers in Colorado and rural communities just like our communities all across this wonderful country. Our farmers and ranchers are experiencing the worst drought in over half a century. Who is going to look in the eyes of our farmers in Middle America and tell them our dysfunctional politics will prevent this bill from moving forward?

Who is going to tell Steve Scott and Carl Hansen that this bill isn't going to be a priority in the Congress, that we are just going to take our recess and go home for a month not having passed this bipartisan piece of legislation, the only manifestation and example of bipartisan deficit reduction in either the House or the Senate in this entire Congress?

I implore the House to figure out how to come to its senses and pass a 5-year bill along the lines of the bill that was passed out of their committee, and then together we can have a conference and decide how we are going to move this bill forward on behalf of farmers and ranchers all across my State and the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I didn't come to the floor to speak about the farm bill because I did that yesterday. I want to assure the Senator from Colorado that I listened to everything he said, and I agree with him. That was my plea in maybe a little broader context yesterday in asking that the House of Representatives take up the bill. Also, the House brags, legitimately so, about being fiscally conservative, so I agree with what the Senator from Colorado said. This may be the only opportunity—presumably the only opportunity—to pass a farm bill or any bill that saves money from previous programs of previous years. I compliment the Senator from Colorado.

FREEDOM OF SPEECH

Mr. President, I come to the floor to discuss what I consider a disturbing

trend that is occurring in this country. A vicious attack is underway on the right to freedom of speech that is protected by the first amendment. It needs to be highlighted, and hopefully it will stop. Free speech is one of the most important rights that Americans enjoy.

Speech on public issues is the way democracy discusses and debates the important questions of the day. Many great political movements in this country's history depended upon this first amendment right, freedom of speech. Even when Martin Luther King was jailed and his supporters subjected to violence, free speech enabled him to change the views and practices of an entire nation. Today too many government officials seek to shut up people who disagree with them rather than debate those people and debate those issues.

There have been a series of recent incidents to which I want to refer. Consider recently that the Senate Committee on the Judiciary in the past month has held two hearings that prove my point. A hearing was held on a bill that would criminalize supposedly deceptive statements in advance of elections. It would allow the government to criminalize political speech based on its content. It would risk government selectively choosing to prosecute its political opponents. It would allow political candidates to make accusations against their political opponents. So it would chill candidates from speaking.

A few days after our hearing, the Supreme Court's ruling in the Alvarez case confirmed all the free speech problems with that bill. But even after that decision, the Justice Department, to my disappointment, issued a letter in support of the bill. That letter made no mention of any first amendment considerations. I have heard no indication that the committee will not mark up this bill which represents a grave threat to freedom of speech.

This week, the Judiciary Committee's Subcommittee on the Constitution held a hearing on the legislative responses to the Citizens United case. In that decision, the Supreme Court ruled that the first amendment's free speech guarantee protects the rights of corporations and unions to make independent expenditures in support of candidates or on any particular policy issue that they want to speak out on. The ruling has no effect on campaign contributions. There are proposals in this body to amend the Bill of Rights, the first amendment, for the very first time, to allow the government to limit how much candidates can spend on speech and, therefore, the amount of speech that the government will permit. And there are proposed constitutional amendments to prevent corporations and labor unions from spending in elections. To me, this is very serious business that we ought to be raising a red flag about.

It is worth remembering what rule the Obama administration asked the

Supreme Court to adopt in Citizens United. The Justice Department argued that the government should be able to ban books that contained even one sentence that expressly advocated the election or defeat of a candidate if those books were published or distributed by a corporation or a union. This administration argued in favor of banning books. In light of the practice of totalitarian regimes of the 20th century, this administration's position on free speech is very astonishing. The Supreme Court quite rightly rejected the argument of the administration on that particular point.

It reminded the news media, which is organized in corporate form for the most part, that the exemption from campaign finance laws is by statute, and one which Congress could remove at any time, threatening freedom of the press. If that were to happen and the Constitution were to allow restrictions on corporate independent expenditures, the guarantee of freedom of the press would be as threatened as freedom of speech.

Then there is another situation, and this deals with the restaurant chain of Chick-fil-A. The owner of that chain is a Christian who has spoken in favor of the value of traditional marriage. The chain has not discriminated against anyone so far as has been reported. The restaurant seeks to expand in Boston and Chicago where presumably it would create new jobs, and in order to get there, it has to meet the permit requirements. However, Mayor Menino of Boston wrote a letter to the company president. He said that because of the owner's "prejudice statements," there would be no place in Boston for the discrimination the company represented. The mayor notified the property owners where the restaurant was to open of his views.

In Chicago, an alderman seeks to deny Chick-fil-A from opening in his ward for the same reason. It is reported that President Obama's former Chief of Staff, now Chicago Mayor Rahm Emanuel, is sympathetic to the alderman's point of view.

Once again, this is a gross violation of first amendment free speech. Government cannot deny a benefit to someone because it disagrees with the applicant's views. This is the fundamental principle of our constitutional democracy.

Voicing support for traditional marriage is not discrimination. That speech is not hate speech. Even if it were, the first amendment protects speech that is unpopular with the government. There is no constitutional speech code that allows banning a hate speech any more than government can ban speech in books.

Finally, the Alvarez decision a few weeks ago affects another first amendment issue pending before this body right now. In the Alvarez case, the Supreme Court struck down the Stolen Valor Act which criminalizes lies concerning winning military medals. It did

so on free speech grounds. I know many of my colleagues desire to pass a new law that will accomplish that goal, and if that law is constitutional, I will probably join them in that effort.

Two bills on this subject are now pending in the Senate. Senator BROWN of Massachusetts introduced the first bill and then Senator WEBB did so after the Alvarez decision. There have been efforts to pass both bills by voice vote.

When the Republicans were asked to move the Webb bill, we were told that all Democrats supported the bill. This is a problem. The Webb bill is clearly unconstitutional based upon the Alvarez decision. It criminalizes some lies about medals that the Supreme Court says Congress cannot criminalize.

For instance, it would prohibit lies in campaigns and in employment, even when those lies would not produce the tangible, material benefit that is necessary to punish them. Yet no Democrat objected to passing the bill without debate. Of course, Republicans could not agree to such a request.

Since he did not have the benefit of the Supreme Court decision when Senator BROWN wrote the bill, right now, because of the decision, and he didn't know about it, Senator BROWN's bill is also unconstitutional. The difference between his bill and Senator WEBB's bill, however, is that Senator BROWN now has a substitute amendment that seems to address the problem in a fully constitutional way. But although Democrats want to pass without debate a clearly unconstitutional bill, somehow they object to a clearly constitutional Brown bill.

These games should stop. I am sure all the Members of this body should be willing to support a single constitutional bill that would reenact the prohibition on lying about whether one is entitled to certain military medals.

In short, this country is facing a disturbing increase in government actions that violate the freedom of speech. That is a vital right of our democracy.

Anyone can stand up for speech with which they agree. The test for government officials and the test for free speech is whether they will allow speech with which they might disagree. They may criticize speech, debate the speech, and seek to change minds. But shutting people up, denying them benefits, passing bills that would put people in jail for exercising free speech rights—these are never allowable under our Constitution. It is time for elected officials to pay greater heed to the oath to support the Constitution.

REPORT BY FORMER FBI DIRECTOR WILLIAM WEBSTER ON FORT HOOD ATTACK

Recently, former FBI Director William Webster was asked to investigate how the FBI performed regarding the attack at Fort Hood by MAJ Nidal Hasan.

Major Hasan's attack killed 12 U.S. soldiers, a Defense Department employee, and wounded 42 others. Following the attack, the FBI conducted an internal review and determined that

it had information on Major Hasan prior to that attack. As a result, the FBI Director asked Judge Webster to conduct an independent review and investigation of the FBI's handling of the matter. In short, Judge Webster's commission found that the FBI made mistakes that resulted from a number of problems—some operational, some technological.

Some of these mistakes are extremely concerning given that they are basic management failures. For example, the unclassified report states:

Many agents and most [task force officers] did not receive training on [FBI computer systems] and other FBI databases until after the FBI's internal investigation of the Fort Hood shootings.

This is clearly unacceptable.

Other problems highlighted include failing to issue Intelligence Information Reports on Major Hasan to the Defense Department; confusion about which FBI office was investigating the lead; failure to interview Major Hasan; along with information technology limitations.

All in all, the Webster report paints a disturbing picture of the FBI. It shows lack of training, failure to follow leads, and continued computer problems. These are the types of problems that, quite frankly, we thought were corrected following the terrorist attacks of 9/11.

Ultimately, Judge Webster issued 18 recommendations for the FBI to implement to prevent future problems such as these. The FBI agreed with these recommendations and has stated they will take action to implement those recommendations.

That is good news, of course. The FBI must implement these recommendations and do it immediately. However, we have a duty to make sure the FBI implements these recommendations and holds people accountable—in fact, hold the FBI accountable—if they don't. The FBI's failure in this case is inexcusable and shakes public confidence in the FBI's ability to combat homegrown terrorism. Basic management problems and investigative failures can't happen, particularly if national security is at stake. If failures of this magnitude occur on high profile national security cases, it makes one wonder what the FBI is doing on other investigations.

Those responsible for these failures should be held accountable. I intend to follow up with Director Mueller to determine what action was taken against those people who didn't do the job in the right and correct way.

JUSTICE DEPARTMENT INSPECTOR GENERAL REPORT

One more report that can't go ignored is a report released this morning by the Justice Department Office of Inspector General. This report examined improper hiring practices within the Justice Department's Justice Management Division. Shockingly, the inspector general found the Justice Department employees openly and flagrantly violated Federal law.

Let me repeat that these employees violated Federal law and the Department of Justice regulations prohibiting employment of relatives, granting illegal preferences in employment, conflict of interest, and misuse of position. Further, employees who were interviewed by the Office of Inspector General were also found to have made false statements to investigators.

This is an example of the Justice Department run wild. It is troubling to me how employees within the Department colluded and schemed to hire one another's relatives in order to avoid rules against nepotism. It is inexcusable, and I can assure my colleagues that we will be looking into this matter.

This wasn't a one-time event, by the way. In fact, the Office of Inspector General pointed out that similar problems existed in 2008. Despite what the Department called "aggressive action" to stop this type of behavior back in 2008, it appears nothing has changed.

At the very least, the Attorney General needs to hold these employees accountable with more than just disciplinary action. Laws were broken and false statements were made. The Department can't simply sweep this under the rug. Employees need to be punished because in this town, if heads don't roll, nothing changes.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Rhode Island

CLIMATE CHANGE

MR. WHITEHOUSE. Mr. President, I return to the floor today to give voice once again to the issue I feel will most significantly define this generation of leadership in the United States and around the globe. I rise to discuss the notable, evident changes taking place in our Earth's climate, the relationship between our own activities and the change and the rate of change being observed, and our, so far, forsaken responsibility to address climate change head on and with purpose.

Last month, representatives from world governments, the private sector, NGOs, and other major stakeholders gathered in Rio de Janeiro, Brazil, for the United Nations Conference on Sustainable Development. Marking the 20th anniversary of the 1992 Earth Summit in Rio, this year's conference was nicknamed "Rio+20."

So-called sustainable development principles consist of a set of principles and strategies that, when acted upon by the global community, will balance strong economic growth, expansion of just civic and government structures, and environmental protection. Another way to view sustainable development is in the balance of the needs of the present with those of future generations through the fair use of resources.

As Secretary of State Hillary Rodham Clinton said:

In the 21st century, the only viable development is sustainable development. The only way to deliver lasting progress for everyone is by preserving our resources and protecting our common environment.

One positive aspect of this Rio+20 conference was discussion of the power of economic forces in promoting sustainability. The official Outcome Document adopted by the conference participants entitled “The Future We Want” highlights the role of private companies, the private sector—and their close collaboration with governments—in driving sustainable development. It reads in part:

We acknowledge that the implementation of sustainable development will depend on active engagement of both the public and private sectors. We recognize that the active participation of the private sector can contribute to the achievement of sustainable development, including through the important tool of public-private partnerships.

A number of Rio+20’s corporate participants have stepped forward to accept this challenge. Many of those global businesses are recognizing that greening their operations is not just good for the environment, it is good for their business as well.

Dell, for example, has committed to reducing its worldwide facilities’ greenhouse gas emissions 40 percent by 2015. Dell is a computer technology corporation based in Texas that ranks 44th on the Fortune 500 and employs over 106,000 people. I doubt they made that decision rashly.

Bank of America, based in Charlotte, NC, is number 13 on the 2012 Fortune 500 list and was the first bank to offer coast-to-coast operations in the United States. They have committed \$50 billion over 10 years to finance Energy Efficiency, Renewable Energy and Energy Access, and other activities that advance the low-carbon economy.

Marriott has displayed both internal and external efforts by committing to build 10 Fairfield by Marriott hotels constructed to sustainable building standards; as well, pledging \$500,000 to help preserve 1.4 million acres of rainforest in the Juma Reserve in the state of Amazonas, Brazil. Marriott ranks first on the Fortune 500 list in the category of the hotel-casinos-resorts industry.

Microsoft has committed to going completely carbon neutral, and will be factoring the costs of carbon output into the company’s business operations in over 100 countries.

These companies are just a few examples from the effort that is being undertaken in the private sector to meet our responsibilities to address climate change. As leaders in government, we must recognize that the private sector will not, however, be able to halt climate change on its own. But these commitments do signify that action on climate change does not need to come at the expense of economic growth.

Governments can—and must—provide incentives for sustainable production and consumption. Indeed, the Rio+20 Outcome Document goes on to say: “We support national regulatory and policy frameworks that enable business and industry to advance sustainable development initiatives tak-

ing into account the importance of corporate social responsibility.”

As leaders in the public sector, we have the capacity to establish those effective incentives that can leverage billions in private sector investment into sustainable products and services that support environmental and social improvements. The constructive role that government can play is being recognized not just in capitals around the world but in boardrooms around the world.

Yet, unfortunately, here in Washington, the special interests that deny carbon pollution causes global temperatures to rise, that deny melting icecaps destabilize our climate so that, for instance, regions face extreme drought—as the Senator from Colorado discussed earlier—or outsized precipitation events—that we have seen in my home State of Rhode Island—those special interests in Washington still have a strong hold, and they pretend the jury is still out on climate changes caused by carbon pollution. This is, to be perfectly blunt about it, an outright falsehood.

The fact that carbon dioxide in the atmosphere absorbs heat from the Sun was discovered at the time of the Civil War—1863. Mr. President, 1863 was when the Irish scientist John Tyndall determined that carbon dioxide and also water vapor trapped more heat in the atmosphere as their concentrations increased.

The 1955 textbook, “Our Astonishing Atmosphere”—from the year I was born—notes that “Nearly a century ago”—in 1955—“the scientist John Tyndall suggested that a fall in the atmospheric carbon dioxide could allow the earth to cool, whereas a rise in carbon dioxide would make it warmer.”

So this is not something new. This is not something unusual or extraordinary. This is solidly established science.

In the early 1900s, it became clear that changes in the amount of carbon dioxide in the atmosphere can account for significant increases and decreases in the Earth’s annual average temperatures, and that carbon dioxide, released primarily by the burning of coal, would contribute to these changes. Again, this is not new stuff. These are well-established scientific principles.

Let’s look at the changes we observe in our changing planet. Over the last 800,000 years, until very recently, the atmosphere has stayed within a bandwidth of 170 to 300 parts per million of carbon dioxide—170 to 300 parts per million. That has been the range for 8,000 centuries. By the way, that is a measurement, not a theory. Scientists measure historic carbon dioxide concentrations by locating trapped air bubbles in the ice of ancient glaciers. So we know by measurement over time what the range has been of our carbon dioxide concentration.

What else do we know? Well, we know since the Industrial Revolution, we have burned carbon-rich fuels in

measurable and ever-increasing amounts, and that we are now up to 7 to 8 gigatons each year going into our atmosphere. A gigaton, by the way, is a billion—with a “B”—metric tons. Releasing all this carbon into the atmosphere has, predictably, increased the carbon concentration in our atmosphere. That should not be a difficult proposition, that when you are dumping 7 to 8 billion metric tons of carbon into the atmosphere every year, it raises the concentration of carbon in the atmosphere.

We now measure those carbon concentrations in the atmosphere. We measure them climbing. Again, this is a measurement, not a theory. The present concentration exceeds 390 parts per million. Mr. President, 8,000 centuries between 170 to 300 parts per million, and now we are out over that range, as far as 390 parts per million. In the Arctic, we have actually clipped over into 400 parts per million.

Here is what the Christian Science Monitor said about this:

The Arctic is the leading indicator in global warming, both in carbon dioxide in the air and effects, said Pieter Tans, a senior NOAA scientist.

The Arctic is our leading indicator in global warming, both in terms of the carbon dioxide concentration in the air and the effects of that carbon dioxide concentration.

“This is the first time the entire Arctic is that high,” he said.

Tans called reaching the 400 number “depressing,” and [his colleague Jim] Butler—

Who is the global monitoring director at the National Oceanic and Atmospheric Administration’s Earth System Research Lab in Boulder, CO—

said it was “a troubling milestone.”

“It’s an important threshold,” said Carnegie Institution ecologist Chris Field, a scientist who helps lead the Nobel Prize-winning Intergovernmental Panel on Climate Change. “It is an indication that we’re in a different world.”

“It is an indication that we’re in a different world.”

In this article, they make the same point I made a moment ago. I quote the article:

It’s been at least 800,000 years—probably more—since Earth saw carbon dioxide levels in the 400s, Butler and other climate scientists said.

So another thing we do pretty regularly around here in business, in the military, in science, is plotting trajectories. It is something that, frankly, scientists, businesspeople, and military folks do every day. There is nothing new here.

When you plot the trajectory for our carbon concentration, the trajectory for our carbon pollution predicts 688 parts per million in the year 2095 and 1,097 parts per million in the year 2195. Mr. President, 688 parts per million in the year 2095, when for 8,000 centuries it has been between 170 and 300 parts per million. So 8,000 centuries at 170 to 300 parts per million, and by the end of this century: 688 parts per million.

To put that 800,000-year figure in perspective, mankind has engaged in agriculture for maybe 10,000 years, maybe a little more. Mr. President, 800,000 years ago, it is not clear we had yet figured out how to make a fire. Millions of years ago goes back into geologic time. Those carbon concentrations—688 parts per million, 1,097 parts per million—those are carbon concentrations that we have not seen in millions of years on the surface of the Earth. And we are headed for them in just a century and a half—two centuries.

As Tyndall determined at the time of the Civil War, increasing carbon concentrations will absorb more of the Sun's heat and raise global temperatures, and experience around the world is proving that is taking place in front of our faces in undeniable ways.

We think often of climate change as happening to our atmosphere, and we think of its effects on our lands because we are land-based creatures. But let me talk for a moment about our oceans.

In April of this year, a group of scientific experts came together to discuss the current state of our oceans. Their workshop report stated this:

Human actions have resulted in warming and acidification of the oceans and are now causing increased hypoxia.

Hypoxia is when there is not enough oxygen trapped in the ocean to sustain life of the creatures that live in the ocean.

Studies of the Earth's past indicate that these are the three symptoms—

Warming, acidification and increased hypoxia—

associated with each of previous five mass extinctions on Earth.

We experienced two mass ocean extinctions 55 million years ago and 251 million years ago. Last year, a paleobiologist at Brown University, whose name is Jessica Whiteside, published a study demonstrating that it took 8 million years after that earlier extinction—the one 251 million years ago—it took 8 million years after that for plant and animal diversity to return to preextinction levels. So that was a pretty heavy-duty wipeout if it took 8 millions years to recover.

Here is the tough part. In the lead-up to these past mass ocean extinctions, scientists have estimated that the Earth was emitting carbon into the atmosphere at a rate of 2.2 gigatons per year for the earlier extinction, and somewhere between 1 and 2 gigatons per year for the second extinction over several thousand years.

Remember how much are we releasing now—7 to 8 gigatons a year. So 2.2 and somewhere between 1 and 2 were the levels that led to those mass extinctions in geologic time, and we are now at 7 to 8 gigatons a year.

As the group of Oxford scientists noted, both of these estimates, the ones for how much was being released in those geologic times, are dwarfed in comparison to today's emission. Our

oceans are indeed changing before our very eyes, and anyone who spends time on the oceans or who studies the oceans knows this. The oceans are rising. The oceans are swept by more violent storms. The oceans are getting more acid, affecting already the creatures at the bottom of the food chain, upon which ocean life depends.

It is very hard for a creature to succeed in an environment in which it is becoming soluble. That is what is happening as our oceans acidify, and the small basic creatures at the very bottom of the food chain that live by making their shells can no longer make shells successfully because the water is too acidic.

In the Arctic, we see unprecedented icemelt. The caps are shrinking. Every day it seems we hear about a new record being broken, a new loss of ice cover in the Arctic. In the tropics, we see coral dying. In some places, 80 percent of the coral is gone. I have been to places I can remember live and lively coral reefs, and now we go back and the coral is still there, but it is dead. It is like an abandoned building. Fish can swim around in it, but it is not the fountain of life that a coral reef is supposed to be.

There is a garbage gyre in the Pacific that is estimated to be larger than the size of the State of Texas in which enormous amounts of the plastics we discard are being swept and floating.

We have whales that are poisoned to the point where if they come ashore in Rhode Island on a summer day, if they are hurt or get washed ashore because they are injured, we often end up with whale cadavers in the summers on our coast. When that happens, it is reasonably likely that whale is toxic waste; that if we towed the body back out to the ocean to let it sink and let nature take its course, we would be violating our clean water laws by disposing of toxic waste. If we cranked that whale's body up into the back of a truck and took it to the town dump and chucked it, we would be violating the hazardous waste disposal laws of the State of Rhode Island because we have put so much poison into the ocean that creatures such as whales that live at the top of the food chain have now become so infiltrated with these poisons that they are now swimming toxic waste.

Around here we like to think pretty highly of ourselves. But the laws of physics, the laws of chemistry, the laws of science, these are laws of nature. These are laws of God's Earth. We can repeal some laws around here; we cannot repeal those. Senators are used to our opinions mattering around here. These laws are not affected by our opinions. For these laws of nature, because we can neither repeal them nor influence them, we bear a duty of stewardship, of responsibility to future generations to see and respond to the facts that are before our faces and to see and respond to those facts according to nature's laws.

There is no lobbyist so powerful, there is no secret special interest so

wealthy that it can change the operation of those laws. What they have done is to change the operation of our laws, inhibited our ability to meet our duty to respond to the laws of our God-given Earth. We do indeed bear a duty to make the right decisions for our children and grandchildren and our God-given Earth. right now we are failing, shamefully failing, in that duty. We are deluded if we think that somehow we will be spared the plain and foreseeable consequences of our failure to act. Some may hope they will find a wizard's hat and wand with which to wish all this away. That is not rational thinking. If we have a simple obligation to our children and to future generations, it is to be rational human beings and to make rational decisions based on the evidence and the laws of nature. These laws of nature are known. Earth's message to us is clear. Our failure is blameworthy. Its consequences are profound, and the costs will be very high.

I see the distinguished Senator from Alaska who actually brought a wonderful scientist from the University of Alaska who gave one of the better presentations on ocean acidification that I have ever seen as part of our Oceans Caucus.

I yield the floor to Senator MURKOWSKI.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Alaska.

EPA

Ms. MURKOWSKI. Mr. President, I have had an opportunity to listen to a few moments of the comments from my colleague from Rhode Island. I clearly share his passion and concern for the oceans. We have been working together as the cochairmen of the Oceans Caucus in the Senate and have had the opportunity to learn from one another on both ends of the country about the significant responsibilities we have, also the great challenges we have, whether it is ocean acidification, whether it is the opportunities we have to ensure that we are good stewards of our water, our land, our air.

It is a challenge I think we face on a daily basis. But I think as we rise to meet these challenges, we recognize that oftentimes within the laws that we have put in place to provide for that level of protection, for that level of oversight and that stewardship, that we may encounter conflict, conflict with the obligation we also have to ensure that the people we represent have an opportunity for good jobs, for a livelihood in a region they call home, that there is a level of balance that we find between our obligation to care for the land, the air, the water, as well as caring for one another.

It is in that vein that I would like to address my comments this afternoon. I would like to speak about certain aspects of what we see within the Environmental Protection Agency and speak specifically to an issue that is

unfolding in my State of Alaska. Clearly, the EPA has important responsibilities to set and also enforce environmental standards. I think we would all agree with that. In the 40 years since EPA was established, our Nation has made dramatic progress in restoring and preserving our environmental resources. I am grateful. I am proud to live in a nation with high environmental standards for the benefit of the land and for the people.

But the process for setting Federal environmental standards, I would suggest, is broken. We are seeing things present themselves not only in my State but around the country. We see in Alaska, day in and day out, that things are not working perhaps as they were designed. So many Alaskans feel the EPA does not "get" Alaska.

But the challenges I think we see up North are just examples of many of the problems we see repeated all over the Nation. I would suggest that what we need to see is balance, balance restored at the EPA. There has always been a recognition that the EPA must go about its work in a balanced way.

Back in 1970, there was a memo called the Ash memo, and it listed the origin of the EPA. They stated it this way:

Sound environmental administration must reconcile divergent interests and serve the public constituency. It must appreciate and take fully into account competing social and economic claims.

In recent years, EPA has not adequately, let alone fully, taken into account these so-called competing claims such as the genuine welfare of our people and their economic needs. EPA says—and I have had many a conversation with Administrator Jackson in person and before committee, where the statements are made that there is a concern about environmental justice for communities that are historically underrepresented in EPA decision-making. The fact is, many of these communities are very frequently the ones that bear the brunt of regressive increases in, for instance in my State, energy and in living costs that are caused by some of these rules we are facing.

When I go home, when I meet with people from around the country, I hear more complaints, more concerns expressed about the EPA than any other Federal agency, bar none. Again and again, I am told the benefits of many of the EPA requirements are uncertain at best but that the cost of the regulations are very real, and they are detrimental to the human welfare.

Today, EPA often seems too eager to impose requirements that are dubious in their health or their environmental benefits but whose main effect may be to penalize or to perhaps even stop commerce or development. So restoring an appropriate equilibrium is vital if we want to have a healthy people, if we want to have a healthy economy.

Today, I would like to speak to one example from my State. There is as it

relates to ECA. ECA is a reference to the Emissions Control Area. The EPA was a major proponent of including the ocean off southern and southeastern Alaska in an international emissions control area. This was an effort to reduce emissions from marine vessels through lowering sulfur standards within the fuel.

The purpose of the emissions control areas is to require ships—which, to be very fair, certainly have significant emissions—to do their part to curb pollution. This is absolutely reasonable. The problem we are seeing up north is that EPA never gathered any air modeling data to support the claim that we have a problem from ships that travel up to Alaska. There has been no air modeling data whatsoever. We have requested. There has been none. Moreover, one of the proposals advanced to work with the EPA—and we need to be working with our agencies, as we need our agencies to be working with us—was an offer for an equivalent method to comply with the ECA requirements in North America. We are the only State in the country that is not accessible by road. Folks come and visit us by air and they come in by ship in the summertime. Tourism is big business in Alaska. In Juneau, the ships that are tied up at the docks are utilizing shoreside services so there are no emissions when they are in the community. So one of the proposals that was out there—this equivalency method—would essentially ask for a tradeoff. If we have cruise ships emitting nothing when they are in dock or at shore, offset that against those that would be emitted from vessels out at sea, essentially an averaging. That was rejected by the EPA.

What has made this particularly disconcerting for many Alaskans is that in the EPA's justification they cite a U.S. Forest Service study that purportedly found some evidence that emissions from cruise ships in southeast Alaska could impact the lichen in the mountains above Juneau. We can see the mountains up here in this chart. They are pretty high. There is lichen up on the top. It is kind of a short, mossy, green plant. The report went on to worry that if we have impacted lichen growth in Juneau, it could somehow or other harm the caribou.

Never mind the link that lichen and cruise ship emissions may be very tenuous, there is a bigger problem with EPA's reasoning, and anybody from Alaska would know the problem, which is there are no caribou in Juneau, AK. There are no caribou anywhere in southeastern Alaska. Everyone has seen my pictures before. Alaska is a pretty big State. If we are sitting in Juneau, AK, the caribou herd this report was apparently concerned about is over 1,000 miles away. There are about 1,000 miles between Juneau and where the southern Alaska Peninsula caribou herd cited in the EPA study live—1,000 miles. It would be as if we would make the assertion a cruise ship sitting in

Miami might somehow affect the food supply for bears up in the Pocono Mountains north of Philadelphia, PA.

I think we need to look at this and recognize we have a pretty flawed study to begin with, if the suggestion is we need to ensure there are no emissions coming from a cruise ship in Juneau because that is going to impact the lichen which will impact the caribou that don't happen to live anywhere near Juneau—no closer than 1,000 miles away. So applying these new fuel standards to save the lichen in Juneau to feed caribou 1,000 miles from here will mean vessels plying the waters of southeast and south central Alaska—whether they are freight vessels that move just about all our goods or cruise ships that are the lifeblood of our tourist economy—will have to meet the requirement they now burn low-sulfur diesel at levels suggested that are, perhaps, not attainable.

The question I think is fair to ask is: What is the problem with requiring these cruise ships and these vessels bringing goods north to Alaska to meet these standards? What is the problem with this requirement?

The problem is while these ECA requirements may not have a measurable positive effect on human health—or caribou food, for that matter—they will have a material impact on our cost of living. Look at the State of Alaska and the way we get our materials in, the way we get our foodstuffs, our hardware, our lumber. It comes to us over the water. There is some, yes, that comes in by airplane, but guaranteed that is going to cost much more. There are some that can come up from the lower 48 across through Canada and into Alaska that way. But if we want to talk about increased emissions, that is surely one way to do it, to put it on a truck and haul it all the way up here.

So much of our goods come to the State by water. About 85 percent of the goods that come to the State of Alaska come into the Port of Anchorage, which is sitting right there.

What we see with these ECA regs is that ships coming out of a port such as Los Angeles or Long Beach—where my colleague from California hails from, and she is here on the floor now—have hundreds of ships coming in and out every day, but they are not subject to this same emissions control area. They only need to burn this expensive low-sulfur fuel for a very short time until they are out of the ECA. The problem is, when traveling along Alaska's coast to bring those goods up to our State, you are in an area where our air is pretty clean—our air is very pristine—but the entire voyage is within this ECA region. It is all within this emissions control area. So throughout that entire journey they are required to burn the lower sulfur, more expensive fuel.

If this were just going to result in an increase in cost to the cruise lines or to the freight haulers that come up to the State, that might be one thing, but

I think we recognize the economic reality that every dime that is added to the cost of doing business in Alaska is ultimately going to be a dime passed on and shared by consumers.

The State of Alaska recently cited an estimate that these new requirements will increase the shipping costs to the State of Alaska by 8 percent. One might say: Eight percent, that is not that bad. We can live with that. But the problem we face is that in 2015, just around the corner, we will see an even higher standard these vessels will be held to. At that point in time, the suggestion is that costs could be increased by as much as 25 percent. That may be on the high margin, but let's say somewhere between 8 and 25 percent. Again, almost every commodity consumed in our State is transported either by ship or by ship and plane, with the cost of freight adding a significant increase to every item out there.

We are already one of the most expensive places to live in America, and rural Alaska is even more expensive. I check on a weekly basis to find out what Alaskans are paying for their fuel, whether it is in the city of Anchorage or up in Fairbanks or out in Kwethluk or in the villages. I monitor that regularly to see how our villages are faring. In Kotzebue, for instance, this week they are paying about \$7.15 for a gallon of gas. I asked that we put a link on our Web site to get some pricing on what we are seeing in our communities as it relates to foodstuffs, things you and I would use in our home here. Here is a package most of us recognize. A 10-pound bag of sugar in Kwethluk is going for \$17.25. There is no other store in Kwethluk, other than the Native store, so it is not as if they can go to the Safeway and comparison shop. It is not as if they can get in their car and drive to the city or go to Costco. It just doesn't happen. There are no roads in and out of Kwethluk. You might be able to take an airplane.

A gallon of whole milk costs \$30 in Ambler, that is if you can find whole milk or any kind of fresh milk. As a mom who has boys who go through laundry, I am always looking to see what people are paying for laundry detergent. In Venetie, a 100-ounce bottle of Tide goes for \$43.50. I had my interns do a little price comparison on Tide. Powdered Tide, 56 ounces, in Anchorage we are paying \$9.98. That is a little higher than here in Washington. Washington is about nine bucks. But in Angoon that same box of Tide is \$18.33. In Barrow it is \$22. In McGrath it is \$21. In Bethel it is \$21.

So when we talk about increasing the prices in Alaska by 8 percent, 10 percent, 12 percent, possibly 25 percent and you are a mom buying a box of Tide and you are already paying \$43, believe me, 8 percent starts to add up real quick. When you are trying to buy a bag of sugar so you can make the food, put up the jam for the winter, and you are paying \$17.25 in Kwethluk, I think it is fair to say we are paying at-

tention to what happens when there are cost increases.

EPA mandated low-sulfur fuel is estimated to add \$100 million in additional cost to the summer cruise traffic in Alaska. So one might say, if you can afford the price of a cruise, that is not that big of a deal. You increase the price of the ticket and people will live. But what happens is that puts Alaska at a competitive disadvantage when we are talking about where these businesses are going to operate. Fourteen percent of all employment in the State is directly tied to the tourism industry. So if the cruise lines can't fully pass on these increased costs, what they are going to do is move their ships. They will take them to other parts of the world where air quality standards are different, and we will have the loss of seasonal visitors. The money they bring to southeastern Alaska is a huge part of the local economy and also to year-round institutions. In Juneau, our regional hospital is actually able to provide for a higher standard of care, in part, because of the high influx of patients it serves during the summertime.

I would suggest the EPA's one-size-fits-all approach to environmental regulation doesn't always work. We can't quite shoe-horn that into in all situations, and we need to be aware of that. Again, when we talk about the concept of environmental justice, we need to make sure when regulations and rules are imposed, we are not hurting the most vulnerable. I would suggest the people in Kwethluk, who are looking at the impact of these regulations and what it is going to mean to them and their village, they are asking: How do we survive? How do we live? The answer isn't for them to move to Washington, DC. That is not the answer. We need to get back to balance.

What is happening now is the State of Alaska has sued the EPA Administrator in Federal Court to stop the new requirements from taking effect. Given the immediacy of the threat these requirements pose to my State, I think the State's move to advance the litigation was the right one. But we shouldn't have to sue our own government in order to get balanced regulation.

Administrator Lisa Jackson has recently acknowledged that applying ECA to Alaska has posed a problem. She recognized that. Unfortunately, we haven't seen anything more beyond those words, and we are still no closer to a solution. These new requirements are set to take effect next week, the initial threshold. I have been raising this issue with EPA for several years, but again we are still working and we have not yet resolved it. I have called on the President himself to marshal the State Department to see if ECA can be amended or some other relief can be found to eliminate at least this one burden.

This is something that is touching Alaskans in a very immediate and a

very direct way. Again, we want to ensure our air is clean, that our water is clean. We want to be the good custodians and stewards of our land, and we are. But we need to be able to work with our Federal regulators. I have asked the Administrator and I have asked the President to work with us on this.

TED STEVENS DAY

Mr. President, I know my colleague from California is here to speak, but I would like the indulgence of the body for just 2 more minutes to speak on a little bit of a happy occasion.

TED STEVENS DAY

Mr. President, the day after tomorrow, on Saturday, Alaskans are going to be celebrating Ted Stevens Day. As I travel around the State, whether I am in Fairbanks or down on the Kenai River or up in Bethel, down in Ketchikan, everywhere I go, I am reminded of my good friend and a friend to so many in this body, Senator Ted Stevens.

It was nearly 2 years ago now that we lost Uncle Ted to the tragic plane crash in southwest Alaska. But as tragic as that was, I always stop to remember that that tragedy struck while Ted was doing what he loved to do most, which was enjoying Alaska's great outdoors and going fishing, just being outdoors. His passion for Alaska's unique wilderness, his love for fishing, and his immense affection for the outdoors really embodies the spirit we are now advancing in Ted Stevens Day, and the motto of this day is "Get Out and Play."

On the fourth Saturday of July, we join together to celebrate the life and the legacy of a man who was really dedicated to public service, whether it was his days as a pilot in World War II, to the four decades he served with us here in the Senate.

He began working in Alaska long before statehood. When he came here to Washington, DC, to represent us in the Senate, he began a battle for our State that lasted for 40 years. He fought for roads, for buildings, and for infrastructure that new, young States need, as well as many of the programs that are in place today that continue on. He worked to transform not only Alaska but really the rest of the country as well.

It is somewhat coincidental that this Ted Stevens Day coincides with the beginning of the 2012 summer Olympic games in London. So as Alaskans get together to get out and play this weekend under the midnight sun, there are going to be 530 American athletes who will begin to embark on a 17-day Olympic journey Senator Stevens helped to pioneer. It is because of legislation he championed that the Olympic movement in the United States exists as it does today.

Back in 1978, he fought for the passage of the Olympic and Amateur Sports Act. This was later renamed the "Ted Stevens Olympic and Amateur Sports Act" in his honor and declared

the U.S. Olympic Committee the centralized body of all Olympic activities in the country and ultimately led to the creation of national governing bodies responsible for the oversight of each individual Olympic sport—a structure that is still in place now. He really was so much an inspiration to the progress and to the development of the Olympic movement here in the United States. Earlier this month, the U.S. Olympic Committee honored Senator Stevens as a special contributor in the Class of 2012 U.S. Olympic Hall of Fame.

We all know Senator Stevens was also a huge proponent of title IX. I think he would be very proud that for the first time in American history, Team USA is comprised of more women than men. I think that would give him a smile. But this feat was made possible by the landmark legislation passed 40 years ago that opened gymnasium doors and leveled the playing field for women and girls across the country.

In Alaska, we very often say that Ted Stevens was larger than life. Today, in discussing this and bringing this up, we recognize that on Saturday we are going to continue a tradition of remembering a man who loved Alaska with a passion. As we go out and bike and hike and fish, I think many will share good memories of an amazing Alaskan, an amazing man, and truly an amazing American.

I thank the Presiding Officer for the opportunity to speak a few minutes about a subject which should, hopefully, bring a smile to many of us.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I wish to speak on the Cybersecurity Act of 2012. I assume that bill is in order and on the floor.

THE PRESIDING OFFICER. The motion to proceed is pending.

Mrs. FEINSTEIN. Mr. President, I come to the floor as the chairman of the Intelligence Committee to, in my own way, indicate the seriousness of the job we are about to begin. I know there is controversy. I know there are differences of opinion. But what people have to understand is that we have breach after breach now, and they have become far more numerous, much more sophisticated, and much more insidious in recent years.

I want to give a number of examples of what is happening out there in the real world, and let me begin by going back to 2008, when the Pentagon's classified military computer networks suffered a "significant compromise." That is according to former Deputy Secretary Bill Lynn in 2010. These breaches are usually classified at the time they happen; therefore, people don't know about them. So all I am going to do is run through unclassified breaches, and even that is beyond comprehension. Former Secretary Lynn also detailed that foreign hackers stole 24,000 U.S. military files in a single at-

tack on a defense contractor in March 2011.

In the 5 months from October 2011 through February 2012, over 50,000 cyber attacks were reported on private and governmental networks, with 86 of those attacks taking place on critical infrastructure networks. Now, that is according to the bipartisan Policy Center's Cybersecurity Task Force. Fifty thousand incidents were the ones that were reported to the Department of Homeland Security, so they represent only a small fraction of the cyber attacks carried out against the United States.

In December 2011, press reports revealed that the networks of the U.S. Chamber of Commerce were completely penetrated for more than a year by hackers. The hackers apparently had access to everything in Chamber computers, including member company communications and industry positions on U.S. trade policies.

In March 2011, NASA's Inspector General reported that cyber attacks successfully compromised NASA computers. In one attack, intruders stole 150 user credentials that could be used to gain unauthorized access to NASA systems.

Another attack at the Jet Propulsion Laboratory that involved China-based Internet Protocol addresses let the intruders gain full access to key JPL systems and sensitive user accounts.

Forty-eight companies in the chemical, defense, and other industries were penetrated during 2011 for at least 6 months by a hacker looking for intellectual property. The cybersecurity company Symantec attributes some of these attacks to computers in Hebei, China.

It became worldwide news when Google alleged in April of 2011 that China had compromised hundreds of Gmail passwords for e-mail accounts of prominent people, including senior U.S. officials.

On March 17, 2011, RSA publicly disclosed that it had detected a very sophisticated cyber attack on its systems in an attempt to obtain data that would compromise RSA's authenticated log-in technology. The data acquired was then used in an attempt to penetrate Lockheed Martin's networks.

Between March 2010 and April 2011, the FBI identified 20 incidents in which the online banking credentials of small to medium-sized U.S. businesses were compromised and used to initiate wire transfers to Chinese economic and trade companies. As of April 2011, the total attempted fraud amounts to approximately \$20 million, and the actual victim losses are \$11 million.

In October 2010, hackers penetrated the systems of NASDAQ, which sparked concerns about the severity of the cyber threat facing the financial industry.

In January 2011, a hacker extracted \$6.7 million from South Africa's Postbank over the New Year's holiday.

In January 2011, hackers penetrated the European Union's carbon trading

market, which allows organizations to buy and sell their carbon emissions quotas, and stole more than \$7 million in credits, forcing the market to shut down temporarily.

An international computer-crime ring, broken up in October 2010, siphoned about \$70 million in a hacking operation targeting bank accounts of small businesses, municipalities, and churches, according to the FBI.

In November 2008, hackers breached networks at Royal Bank of Scotland's WorldPay, allowing them to clone 100 ATM cards and withdraw over \$9 million from machines in 49 cities.

In December 2008, retail giant TJX was hacked. The one hacker captured and convicted, named Maksym Yastremskiy, is said to have made \$11 million from the hack.

In August 2008, computer networks in Georgia were hacked by unknown foreign intruders, most likely at the behest of the Russian Government because they were coordinated with Russian military actions against Georgia.

In May 2007, Estonian Government networks were harassed by a denial-of-service attack by unknown foreign intruders, most likely again at the behest of the Russian Government because they were part of the worst dispute between the two countries since the collapse of the Soviet Union.

So, as you can see from some of the examples above, for years now, the United States and other countries have been at the receiving end of multiple, concerted efforts by nation-states and non-state actors to hack into our networks. These bad actors are infiltrating our communications, accessing our secrets, and sapping our economic health by stealing intellectual property. They may also be building a capability, if necessary in the future, to wage cyber war. We may not even know until the attack has been launched.

These attacks are sophisticated, and involve hacking techniques that we unfortunately now see quite often. Cyber attacks can come in the form of viruses and worms, malicious backdoors, logic bombs, and denial-of-service attacks, just to name a few.

A groundbreaking unclassified report from November of last year published by the Intelligence Community said cyber intrusions against U.S. companies cost billions of dollars annually. The report named China and Russia as aggressive cyber thieves.

On China, the report said: "Chinese actors are the world's most active and persistent perpetrators of economic espionage." We know that sophisticated attacks from China against financial and technology companies, such as Google, resulted in property theft on a massive scale. Billions of dollars of trade secrets, technology, and intellectual property are being siphoned each year from the United States to benefit the economies of China and other countries.

On Russia, the report said: "Russia's intelligence services are conducting a

range of activities to collect economic information and technology from U.S. targets." I can assure everyone that the classified assessments are far more descriptive and far more devastating.

The examples above are bad enough, but cyber threats are evolving, and I am very concerned that the next wave will come in the form of crippling intrusions against the computers that control powerplants, dams, transportation hubs, and financial networks in these United States.

We have already seen the use of cyber attacks in warfare, when hackers inside Russia reportedly took down the command and control systems in Estonia in 2007. That was 5 years ago, roughly a lifetime in the realm of cyber attack capability.

Senior national security experts from across the political spectrum have sounded the alarm about this threat. For Example, Leon Panetta, at his confirmation hearing to be Secretary of Defense, said:

The next Pearl Harbor we confront could very well be a cyber attack that cripples our power system, our grid, our security systems, our financial systems, our governmental systems.

Bob Mueller, Director of the FBI, testified before the Senate Intelligence Committee that "the cyber threat, which cuts across all programs, will be the number one threat to our country." We are dealing with the No. 1 threat to the country.

I am pleased to be an original cosponsor of the Cybersecurity Act of 2012 with Senators LIEBERMAN, COLLINS, ROCKEFELLER, and CARPER. I wish to thank them for their tireless work on this legislation over the past several years.

This act has seven titles. Each of them addresses a key gap in our Nation's cyber laws. I wish to take a moment to describe the critical infrastructure provisions in Title I, but I wish to focus most of my remarks on the information-sharing part of the bill, which makes up Title VII.

Title I covers Critical Infrastructure Protection, which means protecting the public and private infrastructure that underpin our economy and our way of life—a big deal. A cyber attack against these networks could open a dam, crash our financial system, or disable the electric grid. It could stop all planes and interrupt the FAA—on and on and on.

Although some critical infrastructure companies have taken action to protect their networks, too many of them have not. It appears that market forces are insufficient for many critical infrastructure companies to adopt adequate cybersecurity practices. Thus, Title I of this bill would create strong incentives for companies to work with the Federal Government to establish standards for critical infrastructure protection.

Let me be candid. Even though the bill makes cybersecurity standards voluntary, I know many Senators still re-

sist this idea. I do not. I would have preferred that this bill include its original critical infrastructure provisions, which would have mandated baseline standards for cybersecurity. But I recognize we have to compromise. I recognize this legislation is a necessary first step to provide some security, and that compromise to the voluntary measures in this bill was necessary. So we have done it. I hope if and when we see a major cyber attack against the power grid, or Wall Street, or a major dam, we won't see this compromise as a mistake.

Other Senators have spoken at length about critical infrastructure and other parts of the bill, so let me move to Title VII, regarding information sharing. This is the part the Intelligence Committee has had something to do with. This title—at least 40 pages of the bill—covers authorities and protections for sharing information about threats to cybersecurity. The information-sharing title addresses one of the main problems I heard from both the private sector and the government about existing laws and business practices when it comes to cyber: that private sector companies and the government know a lot about the cyber attacks against their networks, but this information is so stovepiped that no one is as well protected as they could be if the information were shared. That, I believe, is fact.

As the Bipartisan Policy Center's Cyber Security Task Force recently found:

Despite general agreement that we need to do it, cyber information sharing is not meeting our needs today.

Title VII addresses this problem. It reduces the legal barriers that hamper a private entity's ability to work with others and the Federal Government to share cybersecurity threat information.

How do we do this? What does that title do specifically? First, it explicitly authorizes companies to monitor and defend their own networks.

Many companies monitor and defend their own networks today in order to protect themselves and their customers. But we have heard from numerous companies that the law in this area is unclear, and that sometimes it is less risky, from a liability perspective, for them to allow attacks to happen than to take additional steps to defend themselves. Can you imagine that? So we make the law clear by giving companies explicit authority to monitor and defend their own networks.

Secondly, the bill authorizes the sharing of cyber threat information among private companies. There have been concerns that anti-trust laws prevent companies from cooperating on cyber defense. This bill, in section 702, clearly says:

Notwithstanding any other provision of law, any private entity may disclose lawfully obtained cybersecurity threat indicators to any other private entity in accordance with this section.

Third, the bill authorizes the government, which will largely mean (in practice) the Intelligence Community—I hope the DNI—to share classified information about cyber threats with appropriately cleared organizations outside of the government.

Traditionally, only government employees and contractors have been eligible to receive security clearances, and therefore to gain access to national secrets. To put it another way, those with a valid "need to know" most security secrets are within the government.

That isn't true, though, for cybersecurity. In this case, we cannot restrict classified information tightly within government—the companies that underpin our Nation's economy and way of life have a "need to know" about the nature of cyber attacks so they can better secure their systems.

It is not sufficient for the government to be able to defend itself against an attack. It is also necessary for companies such as Google, or an institution such as NASDAQ, to be able to protect themselves and to use all possible defenses that we can help provide to them.

Under this bill, companies are able to qualify to receive classified information. They will be certified and then able to obtain classified information about what cyber threats to look out for.

Fourth, the bill establishes a system through which any private sector entity—whether a power utility, a defense contractor, a telecom company, or others—can share cyber threat information with the government.

When it comes to cyber, information sharing must be a two-way street. Oftentimes, the private sector has important information about cyber intrusions that the government doesn't possess. After all, the private sector is the one on the frontlines of incoming cyber assault, so companies are often best able to understand the attack.

The private sector should be able to share that information with the government so that the government can protect itself and fulfill its responsibility to warn others about the threat. So let me describe how this bill allows for and encourages that information sharing, and most importantly, let me describe the liability protections that companies receive for doing so.

The Secretary of Homeland Security, in consultation with the Attorney General, the Secretary of Defense, and the Director of National Intelligence, would designate one or more Federal cybersecurity exchanges. We envision that these exchanges would be an existing entity, such as one of the existing Federal cybersecurity centers.

Private companies would share cyber threat information with these exchanges directly. These exchanges must be civilian entities, which is important to a number of Senators. They will have procedures in place to share that information as quickly as possible

with other parts of the government. The information is protected from disclosure under the Freedom of Information Act. It cannot be used in a regulatory enforcement action.

This exchange would serve as a focal point for information sharing with the government. Having a single focal point would establish a single point of contact for the private sector. Otherwise we would have chaos. Some people want multiple points. It is difficult to do and still maintain the security that is necessary.

We think this approach solves the problem. Having a single focal point is also more efficient for the government. It would help eliminate stovepipes, because right now there are dozens of different parts of the government receiving information from the private sector about cyber threats they are encountering. It is all over the map. It would also make privacy and civil liberties oversight easier, which I know interests you, Mr. President. I will describe that in a moment.

Finally, it should save taxpayers money, because it is more efficient to manage—and that has to be a concern—and oversee the operation of one entity versus many entities.

Let me now describe the all-important liability protections that are such a critical part of this.

Section 706 of the bill provides liability protection for the voluntary sharing of cyber threat information with the Federal exchange.

The bill reads:

No civil or criminal cause of action shall lie or be maintained in any Federal or State court against any entity [that means a company] acting as authorized by this title, and any such action shall be dismissed promptly for . . . the voluntary disclosure of a lawfully obtained cybersecurity threat indicator to a cybersecurity exchange.

That is section 706(a). It is clear as a bell. In other words, a company is immune from lawsuit over sharing cyber threat information with a Federal exchange. The same immunity applies to the following: companies that monitor their own networks; cybersecurity companies that share threat information with their customers; companies that share information with a critical infrastructure owner or operator; and companies that share threat information with other companies, as long as they also share that information with the Federal exchange within a reasonable time. This “reasonable, good faith” defense is also available for the use of defensive countermeasures.

If a company shared information in a way other than the five ways I have just mentioned, it still receives a legal defense under this bill from suit if the company can make a reasonable, good-faith showing that the information-sharing provisions permitted that sharing.

Further, no civil or criminal cause of action can be brought against a company, an officer, an employee, or an agency of a company for the reasonable

failure to act on information received through information-sharing mechanisms set up by this bill.

Basically—and this is important; please listen—the only way anyone participating in the information-sharing system can be held liable is if they were found to have knowingly violated a provision of the bill or acted in gross negligence.

So there are very strong liability protections for anyone who shares information about cyber threats—which is completely voluntary—under this bill.

Now, what information will be shared with the exchange? Information that should be shared includes—but is not limited to—malware threat signatures, known malicious Internet Protocol, or IP, addresses, and immediate cyber attack incident details.

The exchanges would be able to share this information in as close to real time as possible over networks. That is the only way for the private sector and the government to stay a step ahead of our cyber adversaries.

What kind of information can they share? We define this information in our bill as “cybersecurity threat indicators.” We define this term to include only information that is “reasonably necessary” to describe the technical attributes of cyber attacks. This is not a license for the government to take in and distribute private citizens’ information. Rather, it is narrowly tailored to cover information that relates specifically to a cyber attack.

In addition to narrowly defining what information can be shared with an exchange, our bill also requires the Federal Government to adopt a very robust privacy and civil liberties oversight regime for information shared under this title. There are multiple layers of oversight from different parts of the Executive Branch, including the Department of Justice, the independent Privacy and Civil Liberties Oversight Board, as well as the Congress. I wish to direct Members to the privacy and civil liberties protections on pages 185 through 192 of this bill for the litany of procedures, reviews, and reports that are required.

We have worked closely with several Senators, including the Presiding Officer, Senator FRANKEN, and Senators DURBIN, COONS, AKAKA, BLUMENTHAL, and SANDERS on these protections, and I really thank them all for their efforts in that regard. I think my colleagues have really helped the bill become a better bill.

I would also be remiss if I didn’t show my great appreciation of the work and leadership of the majority leader for his unrelenting focus on getting this bill to the floor and making time to have this debate. It is infinitely better having this debate now rather than after a major cyber attack. My greatest worry is that we wouldn’t pass something.

The perfect cannot be the enemy of the good. This legislation is unprece-

dented. It will take some steps. We will find other steps we will need to take. We will need to come back to it and come back to it because technology is moving so quickly.

I think this is as important a bill as I have seen in my 20 years in the Senate. I know what is out there. I know what some other countries are doing. I know what some bad actors are doing. The time has come to protect ourselves and take some action.

I hope we will have the support, and I urge my colleagues to vote for this bill.

Mr. President, I yield the floor and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. I ask unanimous consent that the order for the quorum call be rescinded.

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

HONORING AMBASSADORS TO PAKISTAN AND
AFGHANISTAN

Mr. BLUMENTHAL. Mr. President, I am here today to express my sincere appreciation and thanks and admiration to a number of our distinguished Foreign Service officers who were similarly lauded by Senator MCCAIN earlier today. I heard his remarks, and I wish to be associated with them.

I wish to express my thanks to three very brave and able men who have served this country under the most demanding and difficult conditions, requiring huge personal courage as well as insight and strong action. They are Ryan Crocker, who has served as Ambassador to Afghanistan; his deputy who will replace him shortly, James Cunningham; and our Ambassador to Pakistan, Cameron Munter. What they share and what they have given us in these two critical posts is the best of our Nation’s public service and foreign service.

I had occasion to meet both Ambassador Crocker and Ambassador Cunningham on a number of visits to Afghanistan and to be briefed by both of them, so I know personally how extraordinarily honest and forthright they are in the insight and intelligence they give to congressional visitors. And many of us have been among those visitors and many of us have met with them, so I know others have had that experience as well. I know them both to be extremely capable and intelligent, thoughtful, and insightful. They understand the complexities of this region, and they have succeeded in maintaining strong relationships with our partners in Afghanistan and Pakistan to the extent they were able to do so amid the most complex and challenging circumstances.

Somehow, in between all of the challenges they faced on the ground day to day, they also welcomed congressional visitors with extraordinary grace and

graciousness and generosity. I was proud to be one of them in visiting both Pakistan and Afghanistan.

I wish to recognize particularly the efforts of Ambassador Munter in addressing the supply chain of IED—improvised explosive device—ingredients, the fertilizer and other chemicals that compose the roadside bombs that have literally caused more than half of our Nation's casualties in Afghanistan. Those ingredients are smuggled, sometimes in broad daylight, across the border from Pakistan. He has worked hard and made a valuable contribution in challenging the Government of Pakistan to do better, and to confront the threat and to ensure interagency coordination between the Department of State and the Department of Defense in confronting and attacking the IED network. He has written to me personally, and I thank him for his commitment to a cause that others have also made a priority, including Dr. Ashton Carter, presently Deputy Secretary of Defense. Together, we worked on this issue and made progress, but so much more must be done to stop the flow of IED bomb-making material across the border which does such horrific, destructive damage to our troops. One need only visit the Bethesda Naval Center to see it firsthand. Our hearts go out to the young men—principally men—and women and their families who are victims of these bombs. Thank you to Ambassador Munter for making it a priority.

I thank Ambassador Crocker likewise for working on this problem as he led the Embassy in Kabul through profoundly and deeply challenging times. When we here in Washington revise our policy toward Afghanistan and as we go through those revisions now, he has adopted and he has carried out policies, and he has served well our national interests, even in the midst of change and challenge.

I welcome Deputy Ambassador Cunningham to his new post. I have worked and been briefed by him. I, in fact, stayed with him in the Embassy. I have seen his keen insight, his quiet, understated manner, and his strength and will.

Indeed, all of these men are men of intellect, but they are also men of action, committed to delivering results to the Nation. They are men of loyalty and courage.

I will just finish on this note. Nobody should underestimate the courage that is required to serve in these positions. Anyone who has visited these countries knows the threat of physical danger is ever-present not only to the brave men and women who serve in uniform in our Armed Forces but to our diplomats who every day put their lives on the line to serve us. So I thank not only them but the thousands of men and women who have served with them in Afghanistan, in Pakistan, and in other countries, at postings in places whose names most Americans can barely pronounce. They have demonstrated the

kind of bravery that Ambassadors Crocker, Munter, and Cunningham have every day. They deserve our thanks and our good wishes as they leave their present posts—as Ambassador Crocker retires—and our good wishes for continued success for the sake of their lives and for the sake of our Nation.

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

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

GUNS IN AMERICA

Mr. SCHUMER. Mr. President, I, like everyone else in America, have followed the terrible tragedy in Aurora, CO. Just awful. I was particularly moved when I read in one of our local papers the bios of the 12 who had died. So many of them were young, in the prime of life, in their late teens and early twenties. So many of them were brave, protecting others—a child, a girlfriend, a friend. I was so upset on reading this, seeing these people's lives snuffed out, just as they had great futures ahead of them—for nothing.

It was the same kind of feeling I had after the World Trade Center—of course, magnified by much more because so many more people died, and I actually knew some of the people who died. But the same senseless killing of innocent people occurred.

Of course, in the days after the tragedy, and as the dust settled—it will never settle for the families whom my heart goes out to—we began our usual discussion about guns in America, and there were many voices on all different sides.

As somebody who has been very involved in these issues, I gave it some thought and wanted to share with my colleagues and with my constituents and my country some thoughts about this.

The question that comes up is: Can we do anything about guns in society? Of course, many would ask: Should we do anything about guns in society? Even the very thoughtful and erudite member of my own party, the Governor of Colorado, said a ban on weapons would not have stopped this tragedy from occurring, in all likelihood.

So I wish to share some of my thoughts briefly.

The bottom line is, maybe we can come together once and for all on the issue of guns if each side gave some. I have thought about this for a while.

As you know, Mr. President, I was the House author—the leader, of course, was my colleague from California—of the assault weapons ban. I am even prouder of the Brady law, where I was probably the leader, and that has saved so many lives.

So the question is: When we were able to pass those kinds of

groundbreaking laws, why are we so paralyzed now?

Part of the reason—and this has not been mentioned—is that crime has actually decreased dramatically in America for a whole lot of reasons. I probably do not share the views of some of my colleagues on this side of the aisle as to why it happened. I am a pretty-tough-on-crime guy. But when crime went down, the broad middle that wanted to do whatever it took to stop crime—I remember how it ravaged my city—stopped caring as much because they were safer. That is logical. So they sort of exited the field. Law enforcement, which had been some of our best allies in supporting the assault weapons ban and the Brady law, sort of left the debate. The debate was simply left to those who cared the most, a very small number on the side of more active laws against gun control and a much larger number on the side of those who were opposed.

I know you read in the newspapers: the power of money and the NRA. I have to say this, as somebody who has opposed the NRA and has been written up regularly in their magazines in not the most flattering way, the NRA's main strength is because they have 2, 3, 4 million people who care passionately about this issue, who may not care about other issues, and who are mobilized at the drop of a hat. So when there is a bill on the floor of the Senate which a majority of Americans may support—a majority of Americans support the ban on assault weapons—even people in my State like New York hear much more from the people who are opposed to the assault weapons ban than the people who are for it. Now, 20 years ago, that would not have happened, again, because I think, more than any other reason, crime was so ravaging our communities that average folks would call and complain and worry about too many guns in society, which I think there still are now.

In any case, given that situation, which exists, that the activists, the people who care about this issue the most—not the majority of people—are on the side of no limitations or few limitations on guns, how can we address that balance?

I think there can be a balance. Those on my side who believe strongly in some controls on guns have to acknowledge that there is a right to bear arms. It perplexed many in the pro-gun movement how liberals would read the first, third, fourth, fifth, sixth amendments as broadly as possible, but when it came to the second amendment, they saw it through a pinhole—it only related to militias, which, frankly, is a narrow, narrow, narrow reading of the second amendment.

There were many back then in the 1980s and 1990s in the pro-gun control movement who basically felt there was no right to bear arms. I think in part, because of that, those on the other side of the issue became kind of extreme themselves. Their worry was that the

real goal of the left was not simply to have rational, if you will, laws that might limit the use of guns—what guns could be had, how many clips, who could have them; criminals, the mentally infirm—but, rather, that was just a smokescreen to get rid of guns. And there was enough evidence back in the 1980s and 1990s that people actually wanted to do that.

So if you look at the ads from the NRA and the groups even farther over, the gun owners of America, their basic complaint is that the CHUCK SCHUMERS of the world want to take away your gun, even if it is the hunting rifle your Uncle Willie gave you when you were 14.

I think it would be very important for those of us who are for gun control—some rational laws on guns—to make it clear once and for all that is not our goal, to make it clear that the belief is that the second amendment does matter, that there is a right to bear arms, just like there is a right to free speech and others, and if you are an average, normal American citizen, you have the right to bear arms.

I think if the people who are pro-gun and from the more rural areas, and different than Brooklyn, the city I am from, were convinced that there was a broad consensus even in the pro-gun control movement that there was a right to bear arms, they might get off their haunches a little bit. I think that is important for this part of the compromise. So the Heller decision, which basically said that—and now is the law of the land, but was not until a few years ago—should not be something that is opposed by those who are for rational laws on guns.

I saw that even the Brady organization, that I have worked very closely with—Jim and Sarah Brady helped us pass the assault weapons ban and the Brady law; I have worked with them closely and have known them for decades—but even the Brady organization, which in the past had not had that position, is now beginning to embrace it. I think that is for the good, and I think people should know that.

Once we establish that it is in the Constitution, it is part of the American way of life—even though some do not like that—but once we establish that basic paradigm: that no one wants to abolish guns for everybody or only allow a limited few to have them under the most limited circumstances—this is on a national level—then maybe we can begin the other side of the dialog.

The other side of the dialog is, once you know no one is going to take away your gun, if you are not a felon—your shotgun that you like to go hunting with or a sidearm if you are a store owner in a crime-ridden area—we can then say to those on the other side: OK. We understand that it is unfair to read the second amendment so narrowly and read all the other amendments so broadly, and you have seen us as doing that. But, in response, we would say, and I would say, that no amendment is

absolute, and whether it is in reaction to what happened in the 1980s and the 1990s or because of fanaticism, or for maybe fundraising reasons, it seems that too many on the pro-gun side believe the second amendment is as absolute, or more absolute, than all the other amendments. They are taking the converse position to what I mentioned before—the left seeing the second amendment as minuscule, but the right seeing the second amendment as broader than every other amendment.

Certainly, the right believes in antipornography laws. That is a limitation on the first amendment. Certainly, most people in America believe what—I think it was Oliver Wendell Holmes or Louis D. Brandeis who said: You cannot falsely scream “fire” in a crowded theater. That, too, was a limitation on the first amendment.

Every amendment is a balancing test. That is what the Constitution has said.

No amendment is absolute or our society would be tied in a complete knot. And so we say to our colleagues, this is not a partisan issue completely. There are some Republicans who are for gun control and some Democrats who oppose it completely. It seems to be more of a regional issue than almost an ideological issue. But we would say to our colleagues from the pro-gun side of things, look, there is a right to bear arms. We are not trying to take guns away from people we do not have any reason to take them away from. But you have to then admit that you cannot be so rigid, so doctrinaire that there should be no limitation on the second amendment.

The Brady law is a reasonable limitation on the second amendment, saying that felons or the mentally infirm or spousal abusers should not have a gun. The Heller decision acknowledged that those kinds of reasonable limitations did not violate the second amendment, just as the Court has recognized they are limitations that do not violate the first amendment, all because it is a balancing test.

So I would argue—and we can all find the balance in different ways—not only is the Brady law a reasonable limitation on the second amendment, it is not interfering with the average person's right to bear arms, but neither are the assault weapons. I know there was an argument between my colleague from California, with whom I agree, and my colleague from Wisconsin, with whom I do not agree: An AR-15 is used for hunting. But I have heard people say you should be able to buy a bazooka or a tank. My view is, the assault weapons ban that was passed, which was a rather modest bill, was less important in saving lives than the Brady law by many degrees. But I would argue it is a reasonable thing to do. A limitation that says you should not be able to buy a magazine that holds 1,000 rounds, that is a reasonable thing to do. Rules that say we should be able to trace where a gun originated so we

can find those who are violating some of these limitations such as the Brady law—gun shops that do not check your background even though they are required to by law—is a reasonable thing to do. Again, we can debate where to draw the line of reasonableness.

But we might, might, might—and I do not want to be too optimistic here, having years and years of having gone through this—but we might be able to come to an agreement in the middle where we say, yes, there is a right to bear arms, and, yes, there can be reasonable limitations on the second amendment just as there can be on others.

That is the place I suggest we try to go. Maybe, maybe, we can break through the hard ideological lines that have been drawn on this issue. Maybe, maybe, maybe we can tell those who are at the extremes on the far right and the far left that we disagree with you. And maybe, maybe, maybe we could pass some laws that might, might, might stop some of the unnecessary tragedies that have occurred, or, at the very least, when you have someone who is mentally infirm, such as the shooter in Aurora, limit the damage they are able to do. Maybe.

But I would suggest the place to start here is for us to admit there is a right to bear arms, admit the Heller decision has a place in the Constitution, just like decisions that supported the other amendments, and at the same time say that does not mean that right is absolute. That is just a suggestion. I have been thinking about this since I read those horrible articles about those young men and women being killed. I would welcome comments, particularly from my colleagues on the other side of this issue, whether they be Democrat or Republican, on those thoughts.

Just as we have fought over and over and over again on so many issues, and we have gotten into our corners—there may be none that we have gotten into our corners on more than on gun control. Maybe it is time, as on those other issues, to come out of the corners and try, people of good will, who will disagree and come from different parts of the country with different needs, maybe there is a way we can come together and try and try to break through the logjam and make the country a better place.

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

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

MORNING BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with