

check. If a person goes to a gun show and buys from a dealer there, he or she would still have to go through a background check under current law. If that person goes to the next table, he or she can buy whatever they want and nobody is checking, and that is what we are going to stop.

Let's say I want to buy a gun through the Internet from Senator TOOMEY in Pennsylvania and I am in West Virginia. I see he has a gun for sale, and I want to buy that gun. As the law is stated today, as far as buying interstate—from West Virginia to Pennsylvania—Mr. TOOMEY would have to send that firearm to a licensed dealer in West Virginia, and I would have to have a background check done before I can take possession of that gun.

We are not creating new law. All we are saying is if a person goes to a gun show, there will be a background check for all guns that are sold at the gun show. If a person buys through the Internet, there will be a background check whether it is in-state or out of State. This is not a universal background check. This is basically a criminal and mental background check and that criminal and mental background check has to show that person has been found guilty by a court that he or she is a criminal or criminally insane and not allowed to buy a gun and that is all.

So what everybody is hearing with all this talk is just falsehood. If a person is a law-abiding, proud gun owner, such as myself, and likes shooting and going out in the woods with friends and family, we do not infringe in any way, shape or form on individual transfer.

For those transactions which are not commercial transactions—for example, in West Virginia usually your grandfather or uncle or somebody gets you your first gun. There are some people who never bought a gun but have a collection of guns that was handed down to them by their family. Those people will still be able to have that type of transaction. That is not interfered with. A person can sell a gun to their neighbor without any interference. A person can put a note on the bulletin board in their church and say: I have a gun I would like to sell and sell it to a church member.

So if anyone says we are infringing on somebody's right, we are not. As we worked on the bill, we basically looked at the gun culture in America, who we are, how we become who we are, and that is what we took into consideration.

I, for one, as a gun owner and a person who enjoys hunting and shooting and all the things and camaraderie which that brings, I feel sometimes I am looked upon in an objectionable way because I enjoy that. I am a law-abiding citizen and my second amendment right gives me that right. I want to make sure that right is protected. I also have a responsibility to do the right thing, and that is why we are here.

If we are looking for ways to keep our citizens safe from mass violence, then shouldn't we look at the culture of mass violence? I have gone around to the schools in West Virginia and talked to some of the students.

We can talk to our young pages, the brightest and best of what we have. They have probably become desensitized compared to what the Presiding Officer and I would have seen in our generation. If we saw what they do in a movie—and we didn't have the Internet back then, so we didn't have anything to compare to it.

If we are going to talk about banning somebody's weapon, such as a hand-me-down gun, if you will, don't you think we ought to have people with expertise who can tell what the gun does to make sure it isn't just something that might look fancy but doesn't perform any better than a deer rifle? The Commission on Mass Violence is part of this bill. Basically, we are going to have people who have gun expertise, people who have mental illness expertise.

I have gone to the schools and talked to teachers in kindergarten, first grade, and second grade. They are saying: Wait a minute. We have no help. We have identified kids who are challenged mentally or come from a home that is unstable and not getting proper support, and we have nothing to do to help them. As a society, I believe we have a responsibility, so we are going to have that Commission with guns and mental illness expertise.

How about school safety expertise? We had the horrific situation in Newtown. That gentleman got in that school, not because he had a key or because the door was unlocked, he got in that school because he was able to shoot the glass out of the front door and stick his arm in, hit the safety bar and let himself in.

I have been a Governor for 6 years in the State of West Virginia. We built a lot of schools, and we remodeled a lot of schools. Not once did an architect come to me and say: Governor, if we are going to build these schools, we need all these safety devices so a person cannot get into the school.

They told me about the lockdown for each room so a person would need to have a safety code to get into a room. Not one time was I told we should have bulletproof glass on every first floor window. Not one time was that ever brought up to me. We need people who have school safety expertise.

There is video violence. Talk to the children and youth of today. If you have not gotten on the Internet lately and flipped to video violence, you should do it. It will amaze you. What you see will absolutely scare you. They are exposed to horrific things, which I can never imagine from my childhood. Don't you think we should have the people who are the first defenders of the first amendment come and talk to us about how we can change the culture of violence in our society? That is what we are talking about.

I have heard a lot of my colleagues on different talk shows saying they didn't like this or we should be doing that. My good friend Senator PAT TOOMEY and I are going to go through this bill and explain what it does and what it doesn't do and how we can move the ball forward by keeping society safe, treating law-abiding gun owners with the respect they should have and make sure criminals or the mentally insane who have been found to be so by court cannot buy a gun.

So if someone is a law-abiding gun owner, they are going to like this bill. If someone is a believer in the second amendment right of Americans to bear arms, they are going to like this bill. If someone is a defender of the rights of our military veterans, they are definitely going to like this bill. If someone is looking for ways to keep our citizens safe from mass violence, especially our precious children, they are going to like this bill. For those criminals or persons who have been declared mentally insane by the courts, they are not going to like this bill, and that is exactly what we have tried to do.

I want to go through much of this, but I want to give my friend Senator PAT TOOMEY an opportunity. I appreciate his input so much. We are sister States, West Virginia and Pennsylvania—especially western Pennsylvania. My family and I grew up in Farmington and Fairmont and northern West Virginia, which is an hour and a half below Pennsylvania. We have the same slangs and sayings. We say “you’ns” instead of you all or you. Pat and I understand each other.

I would like Senator TOOMEY to explain the part that is so near and dear to him as well as to me.

The PRESIDING OFFICER. The Senator from Pennsylvania.

TRAGEDY AT THE BOSTON MARATHON

Mr. TOOMEY. Mr. President, I wish to begin by actually taking a moment to inform the Members of this body and people who may be listening, if you were not aware, it appears that a tragedy has struck at the Boston Marathon and bombs have gone off and there are injuries that we know of, casualties, the severity of which we do not yet know. We hope and pray there are no fatalities. Apparently, according to the news reports I have seen, it is too soon to know that with certainty.

I know my good friend from West Virginia joins me in having our thoughts and prayers go out to the victims and their families of the very disturbing news we have just learned this afternoon.

GUN SAFETY

Mr. TOOMEY. I cannot tell you how much I appreciate the Senator from West Virginia. The work we have done together has been challenging and constructive. I think we have come to a

very sensible legislative product—something I can be proud of. I want to thank Senator KIRK for the work he did on this from way back, and Senator SCHUMER's contribution to this process as well.

I wish to start, if I could, with some thoughts about the second amendment and what it means to me and why I think a proper understanding is so important in this discussion.

Sometimes it is useful to go to the source, and so, as a reminder—not that we are not familiar with it—I am going to read from my pocket version of the Constitution the second amendment to the Constitution, which simply says:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Today, we often think that the second amendment is about sportsmen, it is about hunting. That is an important part of it. But the second amendment is actually much more profound than a protection for hunters. It is more fundamental to our country and who we are as a people.

In my view, the Framers, in writing the second amendment, were recognizing our natural rights, our natural law rights of self-defense and self-preservation. In fact, those rights precede the Constitution. They were acknowledging and recognizing those rights in the Constitution. They did not create them.

I would also suggest that the second amendment is about sovereignty. Who is sovereign in this country? Is it the government? Is it the head of state or is it the people? I think, as we know, this whole great experiment of ours that is America is an exercise in recognizing the sovereignty of the individual people. And a sovereign people, it flows logically, ought to have the right to bear arms, to protect themselves.

Ultimately, our Founders intended the second amendment to be the means by which we would maintain our liberty and prevent tyranny. We often take things for granted in a democratic society in which we get to select our own government and our constitutionally protected rights are respected. But we all know that around the world and in the recent past there have been appalling cases where tyranny has destroyed the rights of relatively free peoples who in many ways have come from societies not terribly dissimilar to ours.

So these are some of the thoughts that occur to me when I think about the second amendment, why it is so important to me. I see it as a very important part of our very identity as a Nation and as a people. It is why it is very important to me personally.

In addition to being a gun owner and someone who has always respected these rights, it has a very important philosophical underpinning for me.

For years, of course, we had many contentious debates. One of the contentious debates we had about the second

amendment for many years probably arose from the first phrase about the “well regulated Militia.” The debate centered around whether this right, this second amendment right—that, obviously, is enshrined in the Constitution—was a collective right that depended on one's membership in a militia or if it were an individual right belonging to individual people.

It was always clear to me this is an individual right. It is clear to me for a variety of reasons, not the least of which is the Founders never recognized the idea of collective rights. For them, it was all about individual rights. But, fortunately, our judicial system put an end to that question when a conservative majority of U.S. Supreme Court Justices reached the Heller decision. In *District of Columbia v. Heller* they made it very clear this is not a collective right, this is not contingent upon membership in a militia. The second amendment is an individual right that applies to individual Americans. And I wholeheartedly agree.

Not too long after that, in the *McDonald et al. v. City of Chicago* decision, the Court went even further in a way in upholding the Heller decision and referencing that. It affirmed that decision, but it went farther and said this second amendment right is so important and so fundamental and so basic that it is binding on States and local governments as well. So not only can the Federal Government not infringe upon second amendment rights, but neither can a State or a local government. So that is a pretty impressive conclusion that our Court has come to in resolving a big part of this contentious debate.

I would pose a question the Court has also addressed, and that is, is this a right that is enjoyed by all of the people of America? In my opinion—and I think this is not controversial—the answer to that question is no. Young children are not expected to be afforded the same second amendment rights as adults. Criminals who have been convicted of crimes have foregone many of their rights, including second amendment rights, by virtue of their conviction of serious crimes. And dangerously mentally ill people are people whom we as a society have every right to protect ourselves from, and so they do not have the same second amendment rights everyone else has.

Now, I would argue, to our Founders this was a given. After all, this was a time when capital punishment was quite common and they fully accepted capital punishment. How perverse and absurd would the idea be that someone who was subject to capital punishment would somehow be able to enjoy second amendment rights? Of course not. It is obvious criminals forego that right.

The Heller decision, the recent Supreme Court decision I referred to, addresses this as well. Justice Scalia observed:

Nothing in our opinion—

That is the Heller opinion affirming the individual right of the second amendment—He says:

Nothing in our opinion should be taken to cast doubt on long-standing prohibitions on the possession of firearms by felons and the mentally ill . . . or laws imposing conditions and qualifications on the commercial sale of arms.

It seems to me that is a very explicit explanation that it is not an infringement on second amendment rights to attempt to keep firearms out of the hands of criminals and mentally ill people.

So if the Founders were in agreement on this, and the Supreme Court is in agreement, and we have laws in all 50 States that make it illegal for certain criminals and mentally ill people to have firearms, the question is: Are we willing to take modest measures to try to achieve this goal that I think we all share and that is clearly consistent with our Constitution?

That is what Senator MANCHIN and Senator KIRK and I are trying to do here today. What we are trying to do is make it a little bit more difficult for the people who are not supposed to have firearms in the first place to obtain them. I think Senator MANCHIN will agree with me there is no panacea here, there is no law anyone could write—certainly not this one—that is ever going to guarantee that a determined criminal will not be able to obtain a weapon one way or another or that maybe even a mentally ill person may not be able to obtain a weapon eventually if they are sufficiently determined. But can't we take a very modest step to make it more difficult, if we can do it in a way that does not infringe on the second amendment rights of law-abiding citizens whose rights we want to defend?

So I think of our bill as doing three broad things. And Senator MANCHIN and I will walk through some of the specifics of how we achieve this. But I would suggest one way to think about it is three categories.

One is, we simply encourage greater compliance with the background check system we have in place now. We are not inventing a new one. We are not inventing new criteria for it. But the fact is, the participation in the background check system by the various States—you see, we rely on the States to provide information about the people who have been adjudicated as mentally dangerous, the people who have been adjudicated as criminals. They have been convicted. The Federal government does not have that information. We rely on the States to provide it. What we do in this bill is create greater incentives for the States to, in fact, participate because the participation varies dramatically.

A second thing we do is expand background checks to gun sales at gun shows and over the Internet. Again, this is not a new system. We are just applying this background check to a category that has not been subject to it, but it is the existing system.

Then the third thing is—and we will talk about this at a little length, I hope—we have a number of measures in this bill that, frankly, I think are overdue and they enhance the opportunity for law-abiding citizens to simply exercise the second amendment rights they ought to be able to exercise.

I think Senator MANCHIN put this very well. If you are a law-abiding citizen who enjoys exercising second amendment rights, you are going to like this bill. It is going to enhance your ability to exercise those rights that you have. If you are a criminal, and you want to get a weapon illegally, you probably are not going to like this bill because it is going to make it a little harder for you to do that. It will also make it harder for someone who is mentally ill.

I am going to yield back for my friend, the Senator from West Virginia. But before I do that, I want to make one simple point about how tangible and how real and how important this can be. I am referring to enhancing compliance with the NICS background check system.

We all remember the Virginia Tech shootings. One of the aspects of this tragedy is that the shooter's ability to obtain a weapon might have been prevented. I say that because the young man, Seung-Hui Cho, had already been adjudicated to be mentally ill, dangerously so, by a Virginia judge. They had discovered this. They had figured this out. They knew this was a very unstable and very dangerous man. But the State of Virginia never passed that information on. So there was no information about this man in the national background check system when who knows whatever demons possessed him to go out and obtain guns so he could wreak the havoc he did. He went and submitted himself to a background check, and he passed with flying colors because the system did not have the data.

One of the things Senator MANCHIN and I are proposing in this legislation is, let's provide greater incentives; and there is a carrot and there is a stick and a cost to States so they will be more in compliance.

Now, I will be clear: If Virginia had provided this information to the system, then this shooter from Virginia Tech would have been denied that day and we do not know what would have happened after that. It is possible he would have found some other way to obtain weapons. But think of all the other things that might have happened. If he had been denied at that moment and he had walked out of that store, who knows what else might have intervened—whether he would have gotten help, whether he would have been stopped some other way. We will never know that. But it seems to me it is a good idea to try to put that block in place, and that is one of the things we would achieve. Our legislation, I think, would go a long way over time to encouraging and, in fact, realizing a

greater compliance on the part of the various States.

Senator MANCHIN may want to elaborate a little bit on how we achieve that, and then I would continue in this discussion with him.

The PRESIDING OFFICER (Mr. KING). The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I come from a State where, like most of the rural States in America, there are an awful lot of people who live a solid life. There is a thing back home that we call a person having either common sense or nonsense, and now we think people ought to have a little gun sense. It just makes sense when we think about what we are doing—not infringing on anybody's rights but protecting those rights—by prohibiting those who shouldn't be able to have a firearm through a commercial transaction from getting one.

My good friend Senator TOOMEY was just talking about second amendment rights, which all of us hold near and dear if a person comes from a gun culture State such as ours. With that being said—I just talked about common sense and gun sense—one of the largest progun organizations in the country, the Citizens Committee for the Right to Keep and Bear Arms, which is strictly for the right to protect the second amendment, has come out in total support of this legislation—total support. Do my colleagues know why? Because they read the bill. That is all we are asking. They read the bill.

A lot of our colleagues have been told certain things. We have a lot of friends in different gun organizations who have been told different things. All Senator TOOMEY and I ask is to take the time and read the bill.

We started out working this bill from so many different angles. Everybody had a part in this. What we tried to do was find something that would make a difference.

I want my colleagues to think about this: Most of our colleagues have been visited by those unbelievable families from Newtown. I can't even imagine—I really can't, I still cannot—I know the Presiding Officer probably saw the clips when I lost control of my emotions, but I am a grandfather, I am a father, and I can only imagine what these families are going through.

Let me put my colleagues in that state of mind, of losing a child in such a tragic way. A child goes to school. A parent would never expect that child not to come home from school—one of the most sacred places we have—but it happens. How would my colleagues feel? What state of mind would they be in? Let me tell my colleagues their state of mind. To a person, each one of these family members came in and said: We don't want to take anybody's guns away. We don't want to ban any weapons. We don't want to infringe on people's second amendment right.

On top of that, they said: We really know and realize the bill the Senate is

working on right now would not have saved our beautiful little children. But what we are asking the Senate to do is maybe save another family, just maybe prevent another family from going through what we went through.

We need to think about that. I wish I could be that strong. I said that if 100 of us in this body had 1 ounce of the courage those family members have, oh, my goodness, what a body we would have. If we weren't worried about all of the outside pressure and maybe getting elected, maybe getting the campaign funds it would take for us to go out and get elected, if we worried about basically keeping a gun out of the hands of a criminal in a commercial transaction—a criminal who has gone through a court system and has been found guilty—or out of the hands of a mentally insane person who has gone through a court and found to be unfit, just maybe we could save one life.

Someone says: Well, why would the Senate take this on? I don't know why else we were sent here other than to try to make a difference. The easiest vote I can make while I am a Senator is no. I can vote no on about everything and be fine. I can go home and people won't say: Why did you do that?

I am glad you voted that way because I don't like that either.

Do my colleagues follow me? “No” is the safest vote as a Congressperson or a Senator. I understand that.

It is wonderful, I guess, to have the title of “Senator.” It is a great honor to be in this unbelievable body with these truly magnificent people. I want to make a difference. I want to do something, and I think most of my colleagues do as well.

The only thing I am asking of my colleagues who have been told something or have heard something or have gotten pressured phone calls and letters is to read the bill. Just read it. It is only 49 pages. When have we had something that could change the course of our country and it is only 49 pages long? I have seen bills that were 1,000 pages, 500 pages, amendments that were 300 pages. We have an entire bill that is 49 pages. That is all we have asked for. That is all.

My dear friend Senator TOOMEY and I are going to be on the floor for quite some time. Tomorrow we will probably be joined by our other good friends, Senator KIRK and Senator SCHUMER. Everybody has come together. Senator SCHUMER started with a piece for the bill, and I said: My dear friend CHUCK, I can't support that.

He said: Can I work with you?

I said: I would love for you to work with me.

My dear friend MARK KIRK from Illinois has been steadfast and rock solid. He has been right there.

This is bipartisan. Bipartisan—is it Democratic and Republican? This is America. I don't want to say it is bipartisan. This is America. This is about whether we can make a difference. Can we change something? Can

we have the influence of people who are basically the most unselfish, strongest, bravest people I have ever met, including the families of the Newtown children, to be able to come and say: Listen, I want to protect the rights of law-abiding citizens. I want people to have their rights. I want people to enjoy their guns. I want people to enjoy their hunting trips with their families. I want people to enjoy all the things the second amendment gives us. But I want to protect another family, protect another child, protect another person in America.

That is all we are trying to do.

As we look through the bill, there are so many different things we have talked about. I have heard people say: Oh, my goodness, they are going to start registering, and they are going to give all of those records to some big fancy computer that is going to know exactly where to come and get the gun of the Presiding Officer.

Not only does the law prohibit that today, this bill—when we pass this bill, this law will basically say: If any government agency intends to do that and abuse that record the law-abiding firearm dealer is supposed to keep—and only them—it will not only be a felony, it will entail 15 years of imprisonment. That is why we have these organizations basically joining in after looking at and reading the bill and saying: My goodness, this is really protecting second amendment rights.

So it is an emotional bill. It is an emotional time in our country, but truly it is a time for us to come together. It truly is. There is healing that must go on, and this bill will help that healing.

We want to talk about this, and we are going to go into it detail by detail, step by step.

I thank my good friend Senator PAT TOOMEY from Pennsylvania, and I yield the floor.

THE PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I think it might be useful to discuss some of the specific ways in which this legislation would enhance the compliance and the participation on the part of our 50 States with this existing background check system.

As Senator MANCHIN said—as we both said—we are not creating a new system. We are not creating a new set of rules by which the system operates. What we are simply asking is that since States already have information about people who are criminals and people who are dangerously mentally ill, we want them to put that in the database so we can discover when someone attempts to buy a firearm.

By the way—

Mr. MANCHIN. Mr. President, if my friend will yield, if I may, I would like to mention that we also discussed including an incentive so someone can't say that is an unfunded mandate. That provision is not an unfunded mandate, I say to my colleague.

Mr. TOOMEY. I also wish to mention one of the very typical categories of mental illness we want to capture, and that is people who have been publicly adjudicated. So that would be people who have pleaded not guilty to a crime by reason of insanity. That strikes me as a pretty good definition of somebody who is mentally ill. And someone who is deemed not competent to stand trial by virtue of their mental deficiency would be another category.

But the idea is that we have a series of specific measures that would encourage greater compliance. There is a carrot-and-stick approach. We would authorize some funding. It would have to live within the spending caps we have already agreed to, the overall spending caps, but we authorize funding for grants that States can use to carry out, first of all, an assessment of the extent to which they are or are not currently in compliance. As I said, some States are probably doing virtually all they can and other States are doing almost nothing in terms of providing the information they have to this database system, and they can start with an assessment of that.

We would then ask them to submit a 4-year plan by which they would develop full compliance or as full as they can achieve in 4 years. They work this out with the Attorney General. There will be benchmarks along the way. They would have a series of steps they would take by which they would start to turn over this information they already have about people who are criminals and people who are mentally ill.

If a State refuses to develop such a plan or to achieve the benchmarks they set out in their own plan, then we propose they have a penalty and they would lose some funding. That is the mechanism by which we have an inducement, an incentive for these States. They could lose up to 15 percent of what is known as the Byrne/JAG funding, which is funding Congress annually makes available to States for fighting crime.

So I believe this is a sensible combination of measures to simply encourage States to participate as they should.

If the Senator from West Virginia has anything more to say about the NICS improvement piece of this, I will certainly yield. If not, I want to mention a reason why I feel strongly about expanding the background checks. But at this point I yield for the Senator from West Virginia.

THE PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. I thank the good Senator from Pennsylvania. I appreciate that. I think what he said is spot-on. He is basically saying it preserves important exemptions of background checks that are in current law, such as the temporary transfers. That way, for example, a person can lend their hunting rifle. We are hearing all of those misnomers, such as that people can't even lend their hunting rifle to a friend

or a family member. People can do that. We are not preventing that. There are no restrictions in those circumstances. Also under current law are transfers between families, friends, and neighbors, which we have already talked about. That can be done. That is not what we are talking about. Again, it is just common sense.

As I said, the Senator from Pennsylvania, as well as our other colleagues, Senator KIRK and Senator SCHUMER, and I have been talking back and forth about this. This is not a bill written by just Senators. We have had input from the outside. We have included people from all different walks of life. We would then proceed to do a little research to find out if what they suggested made sense and if it had been done and if it hadn't, whether an infringement occurred to a person who has not been able to enjoy their rights as a law-abiding citizen. We did all of that.

I appreciate so much the Senator from Pennsylvania pointing out those issues, and we will talk more about it later.

I yield for the Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, the last point I wish to make is something about the NICS system that I should have mentioned; that is, currently there are States in which someone can be adjudicated as mentally ill, for instance, but that person is left with very few options to challenge that status. That is the current situation. We remedy that. One of the things we require in this bill, in the 4-year plan States have to develop, is that it has to include a program, a mechanism by which a person who feels they have been wrongly designated as someone who can't own a firearm by virtue of their criminal background or their mental health would have an opportunity to challenge that, as they should. There ought to be a process they can go through to challenge that finding so that nobody who doesn't belong on this list ends up on this list.

Let me move on to the background checks at gun shows. I am going to introduce this by reading a letter I received from a constituent yesterday. This happens to be a woman whom I know very well. I have known her for years. She is a conservative Republican, as it happens. She is a second amendment gun owner. Let me read what she wrote:

Hello, Pat. I just had to write after watching your leadership with this very difficult issue. I very much understand what you are doing with the gun show checks and appreciate your dealing with this. This issue is very personal to me and if you will indulge me, I will tell you.

She goes on to say:

I'm a very strong supporter of the second amendment. I'm the gun owner in my house. I do shoot. My father very proudly passed down his Remington 1100 to me several years before he passed away. He presented it to me with great pride. I accepted it as a very special moment between us. Meanwhile, Pat, I

have an adopted daughter who has had emotional troubles her entire life. Much of our journey with her has been difficult and it continues to this day. My daughter has been involuntarily committed twice, and I unfortunately believe that it won't be the last time, as she refuses to get proper treatment. I was the one who had to sign her paperwork the first time. And it was made clear to me that I would be taking away her right to own a gun. I knew that we had no choice but to try and get her some help. But my hands shook and I had to pause quite a long time over that document, because I so strongly believe in our second amendment rights. Nevertheless, I signed it and I would do it again today.

At various times, people have been concerned for our safety with the volatile nature of my daughter's problems. The idea that she would be able to purchase a weapon openly in a public venue is not acceptable. I do not believe that she actually would, but I don't find any comfort in the fact that she could have an avenue if she so chose. Once again, I cannot emphasize the importance of the second amendment to me enough. Pat, I thank you for your efforts in D.C. and bless you for all that you're doing. Be well and be strong.

I think that says a lot about what we are trying to accomplish. Here we have a passionate supporter of the second amendment, a gun owner, someone who has always been a believer in the second amendment. For reasons that she has explained very personally, very important reasons, she does not want her daughter to be able to go into a gun show and buy a firearm without so much as a background check.

Since the mom has the recognition of her daughter's problems, if the information is provided and if that State complies—in this case it is my State of Pennsylvania—with this background check system, then someone in the circumstances of her daughter attempting to buy a weapon at a gun show would be denied.

I think that is the outcome we all want. It is certainly the outcome her own mother wants, who loves her dearly and loves the second amendment.

I would yield back to the Senator from West Virginia.

Mr. MANCHIN. Mr. President, I think we all have letters such as Senator TOOMEY read right now and people looking for what we call gun sense, which goes right along with common sense. There is so much out there about the bill. Let me just reiterate a couple of things the bill does not do.

What the bill will not do: The bill will not in any way, shape, or form infringe upon anyone's second amendment right to keep and bear arms. In fact, it strengthens that, as Senator TOOMEY has so eloquently described.

The bill will not take away anyone's guns. Nobody will have their guns taken away. The bill will not ban any type of a firearm. It is not even in the bill. We are not banning anything. The bill will not ban or restrict the use of any kind of bullet or any size of clip. It is not in this legislation.

The bill will not create a national registry, which we just spoke about. In fact, it explicitly prohibits that, which

would give the penalties of a felony and a 15-year sentence. As we talk about this bill, we are asking our colleagues to come down and bring their questions, concerns, or what they believe and what they have seen in talking to their constituents.

Right now I am very pleased to have with me a colleague of mine from the Big Sky State of Montana. He comes from gun culture like myself and Senator TOOMEY. I yield to the Senator from Montana.

Mr. TESTER. Mr. President, I would like to thank the Senators from West Virginia and Pennsylvania. I rise to talk about the Toomey-Manchin amendment, knowing this is not an end-all when it comes to violence in America.

We have to do some things that revolve around mental health, mental illness, how we treat that, how we move forward in ways that make sense for folks who believe strongly in the second amendment, but also believe in how we make our communities safer. So whether it is the Toomey-Manchin amendment or whether it is some other amendment that may come up during this debate, or whether it is an amendment that deals with mental health and how we treat it and how we get professionals out there on the ground, this is a very important issue for folks in this country.

The second amendment is very important. I now want to give a little bit of background, which most of the Senators know. I come from a farming background. My grandparents came to our farm a little over 100 years ago. When my folks took the place over, my dad set up a custom butcher shop. For 20 years my wife Sharla and I ran that custom butcher shop. That means every morning, literally every morning, I would get up and we would go knock down a beef or a pork with a gun.

I literally made a good portion of my living on the farm with a gun. It was a tool. It was a way that kept us on the farm. It was a way that kept our farm economically viable. But you do not have to be a butcher to know the value of a gun. In Montana, we have sports men and women who literally start hunting at a very early age and know how to handle a gun. They know responsible gun ownership when they see it. They know irresponsible gun ownership when they see that too.

Right now, anybody can go out and buy a gun. In some States where the national instant crime background check is not very good, literally anybody, whether they have a criminal record or history of violent mental illness, can go out and buy a gun. I think what we are trying to do, what Senators MANCHIN and TOOMEY are trying to do with this amendment is to make the second amendment stronger for the people who are law-abiding gun owners but yet trying to keep guns out of the hands of folks who cannot handle them in a responsible way, and have a record of that—a court-adjudicated record.

As we move forward and talk about the things this bill does positively and negatively, I want to tell you, I have read it forwards and backwards. I have talked to folks. I can tell you this makes my second amendment rights stronger. For that I thank you.

Here is how it does it: My second amendment rights are only put at risk by people who use guns in an improper way. This bipartisan agreement makes sure we protect that second amendment for responsible gun owners, not just in a willy-nilly way, by the way. This clearly defines what irresponsible gun ownership is. It fixes the underlying bill that, quite frankly, I moved to move forward on. But without this amendment I could not support it.

It does some positive things like lets gun dealers sell firearms across State lines at gun shows. That is new. It improves the process by which someone can get their rights restored. This is a big one for me. We have veterans returning from Iran and Afghanistan, by the way, who need treatment, can go get treatment. This bill does not impact them whatsoever.

On the other hand, if somebody has a serious problem, gets put on a list, they have the ability through this law to be able to get off that list once they prove they can handle that gun ownership responsibly. There has been a lot of talk about gun registries. This bill prohibits it from the Department of Justice. The way the world is right now I think it is fair to say nothing changes: No gun registry now. No gun registry after this amendment is passed. In fact, this strictly prohibits it when it comes to the Department of Justice.

There are protections in here for veterans to make sure they are treated fairly by the system. I serve on the Veterans' Affairs Committee. Montana has the second most per capita number of veterans in the country. It is important—it was true in Vietnam, but especially with Iraq and Afghanistan—that these folks are able to get the treatment they need without impacting their second amendment rights. I think we are clear on that. It does not impact them in a negative way.

If you want to give a gun to your son or daughter or you want to sell it to your neighbors or friends, there is no background check required. Active military can buy a gun in their home State or the station where they are, not just their duty station. It allows for a concealed carry permit to be used in lieu of a background check. But the bottom line is it does not impact my second amendment rights whatsoever.

I was on the tractor this weekend seeding a few peas and a little bit of barley. On the radio came a show called "Tradio," where if you have something you want to sell, you put it on the radio. One of the things that was being sold was a .308 rifle. Under this bill, if I put a .308 rifle on the radio, and PATRICK TOOMEY calls me and says he wants to buy that gun, I

can. PATRICK TOOMEY is a friend of mine. We can sell it; no background check.

But if someone I do not know calls, then we whip down to the local store, do a quick background check, which takes—well, I will ask Senator MANCHIN from West Virginia. How long does a background check typically take on an individual buying a gun?

Mr. MANCHIN. I would say that more than 90 percent of the background checks in America that are done are less than 3 minutes, and probably even no more than a minute and a half. So in that range. That tells you about how quick it can be done.

Mr. TESTER. Exactly. So you zip down to the local gun store, wherever it might be in your town, do the background check. Then you do not have to worry about if, in fact, that person has a criminal past or is severely, violently mentally ill. It will be there. There is also language in this bill that if a State is not putting information in the National Instant Criminal Background Check System, money is pulled back.

In the State of Montana, I believe it is about 10 percent. In the State of Montana, that is serious dollars. It is well over \$100,000 to be pulled back.

Would the Senator from West Virginia like to talk about the thinking that went into that and how this could impact the background checks?

Mr. MANCHIN. All of the Members who worked on the bill, Senators TOOMEY, KIRK, and SCHUMER, all of us got together on that. There had to be—basically, one of our largest gun organizations brought us to task saying: We supported background checks 10 or more years ago. It just did not work.

You know what. They were right. So we said: Fine. Do you throw the baby out with the bathwater or do you change the water and make it a little bit better?

So we went back and looked at it. We said: Fine. We did not want any unfunded mandates. We put \$100 million a year for 4 years for the States to have grants to get them up and running to where they should be. So there is an incentive. We also said: If you do not do your job and you do not turn your records over of your adjudicated criminals or mental illness records, then 10 percent the first year, 11 percent—then I think it goes to 13 and up to 15. That is off of the Byrne/JAG money. Every State depends on that Byrne/JAG money. That is serious. No one else has ever put that in there.

You know what. That concern came from the gun organizations right now, one of them who is not supporting it and should be.

Mr. TESTER. Well, the bottom line is, I think this puts into effect real incentives to keep this National Instant Criminal Background Check System database up to snuff.

There is also a Commission on Mass Violence in this bill, which I think is good policy as we move forward, as we find almost on a daily basis some inci-

dent which has happened and is unacceptable.

The bottom line—and I know the Senator has talked about this a lot during the presentation of his bill. He has spoken about something called common sense. This would ensure when we do a background check it actually is a background check. This bill will not solve all the violence problems in this country, not even close. Is it a step in the right direction while protecting my second amendment rights? Yes, it is.

Does it take away my guns? Does it stop my ability to go out and buy any guns I could buy today? No, it does not.

Does it have any impact on things like assault rifles or big, large magazine clips? No, it does not.

What it does is once the National Instant Criminal Background Check System is up to snuff, it will contain people who have a history of violence who used guns improperly. It will prevent people who are violently mentally ill from going out there and purchasing a gun.

If we are able to work together in a bipartisan way, as the Senator from West Virginia and the Senator from Pennsylvania have done, hopefully, we may move forward with some issues and policies which deal with mental health in this country, an issue we have not dealt with well as a society, or the stigma associated with it. If we can do this there are other amendments we may potentially put on this bill as we move forward.

If the amendments have common-sense backing and protect the second amendment, we should take a hard look at them and have a debate on those also. The bottom line is I want my second amendment rights protected. I want law-abiding citizens in this country to be able to continue to purchase firearms. I want my kids to be able to do that, my grandkids to be able to do that. I think this bill ensures that. I thank the sponsors for their hard work.

I yield for the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. I wish to thank my good friend, the Senator from Montana. I know how many calls he has received and the pressure. I know this because of all of the misconceptions and untruths. He did something we are asking all of our colleagues to do. He read the bill and found out for himself this bill does exactly what we have been trying to do for a long time: most importantly, protect the innocent and our people by keeping guns away from people and children who shouldn't have them. He read the bill. This is all we have asked for.

I yield for my friend from Pennsylvania, Senator TOOMEY.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. The Senator makes a point which may seem basic. This bill

has been available online since Thursday night. It is available now and in every detail. It is available in summary form and available in any way people choose to look at it.

The Citizens Committee for the Right to Keep and Bear Arms, one of the pro second amendment rights groups which endorses this bill, states:

If you read the Manchin-Toomey substitute amendment, you can see all the advances for our cause, that it contains.

This "cause" refers to defense of the second amendment, which it contains.

The bottom line is, as the Senator from Montana pointed out, our amendment isn't gun control. This is very clear, and I think it is an important contrast. There are other Members of this body who are not happy with this bill because they want active, aggressive gun control. For instance, they want to ban various categories of weapons. They wish to ban various categories of ammunition. They would like to ban various kinds of waiting periods and put other restrictions on law-abiding citizens. This is gun control. Restricting the freedom of law-abiding citizens who have never done anything to harm anyone and restricting their second amendment rights is gun control. I disagree with it. I oppose it. I will oppose every such amendment which comes before this body.

Trying to keep guns out of the hands of people who aren't legally entitled to have them—dangerous people, be they criminals or dangerously mentally ill people—that is not gun control; this is common sense.

As I started off my comments, there is no dispute this is not an infringement on the second amendment. Our Founders didn't think so. Our Supreme Court Justices didn't think so. The laws in 50 States don't maintain this. It is common sense.

I wish to point out another difference in the approach Senator MANCHIN and I have taken versus some others in this body have taken. Others have said let's make a universal background check, and then we will think about who to make an exception for. Then they carve out very narrow categories.

One of the problems with that, in my view, is we will not imagine every sort of set of circumstances we ought to carve out. We took a different approach. We said private transactions generally don't need to be subject to this. I am not going to try to imagine every conceivable private transaction. We said let's have background checks on commercial transactions. This is where the big volume of commercial transactions occur and where strangers are buying and selling guns from each other. This is why we require the background check at gun shows, and we require the background check on Internet sales.

The private transaction, whether it is with a family member, friends, neighbors or colleagues, if it doesn't happen at a gun show and doesn't happen over the Internet, it is not subject

to the background check. We thought that would be an unnecessary burden on people who know each other.

Let me just run through quickly some of the ways in which this legislation strengthens the ability of law-abiding citizens to exercise their second amendment rights. I will do this briefly. The Senator from Montana touched on some of these. I ought to start off underscoring something the Senator from West Virginia mentioned earlier.

Not only will this not in any way contribute to any kind of national registry, it is explicitly forbidden. Anybody in the Federal Government who did try to create a Federal registry would become a felon and subject to 15 years in prison. This is point No. 1.

One of the problems we have heard from our constituents who are gun enthusiasts, which we were able to address in this legislation, is clarifying and fixing interstate travel laws such as for sportsmen who are traveling long distances. Unfortunately, it happens too frequently when a sportsman is traveling from one State to another State, perhaps on a hunting trip or going home for Christmas and wishes to give a relative a gun for a present. He is perfectly, lawfully entitled to own this gun. He is following the rules and regulations in his State. He packs the gun appropriately in his vehicle. As he is traveling through another State, he discovers he is not in compliance with the other State.

People have gotten themselves into trouble. They have not done anything to harm anybody, they are just traveling into a State which has a whole different regime and doesn't respect the regime of the other State.

We fixed that by clarifying in the legislation if a person is transiting through a State and in compliance with the laws of their home State, they are OK. We permit interstate handgun sales from dealers. We provide—and this is very important; the Senator from Montana mentioned this—a legal process for restoring veterans second amendment rights.

We have a problem in this country right now for veterans. They come back after serving this country, risking their lives, often sustaining injuries, sustaining trauma. They can go to the VA and have a social worker decide they are not able to handle their personal financial matters. This alone puts them on the registry, disqualifies them from being able to own a firearm legally and be able to purchase one.

I think this is outrageous, frankly. This is currently happening every day to veterans. We deal with that. We change the system. Under our legislation, this couldn't happen. Before anybody at the VA could designate a veteran as somebody who can't own a firearm, first they would need to inform the veteran 30 days in advance to give the veteran an opportunity to challenge the status. This is only fair. We owe that to those men and women who

have given so much to us. This is in our bill.

We also have a policy today where the law of the land forbids an Active-Duty military person from buying a gun in his home State. I don't know whose idea this was. It doesn't make any sense to me. This is the law. We repeal the policy in this bill to enable a man or woman serving in uniform in this country to buy a firearm in their home State. We also allow a person who has a concealed carry permit to use the permit as the mechanism by which they are approved for a gun sale. This stands to reason. The concealed carry permit process is itself a very cumbersome and onerous process. In many cases it is very thorough and very expensive. If someone passes that they should be fine. We have it in this bill as well.

I wish to underscore that these are the reasons two of the leading pro second amendment groups have endorsed this bill. It enhances the opportunity of law-abiding citizens to exercise their second amendment rights. If someone is a criminal or mentally unqualified to have a firearm, they are not going to like this bill.

As I said at the beginning, I feel very strongly about this. It is not gun control to try to keep guns out of the hands of people who are not qualified to have them.

I, again, wish to thank the Senator from West Virginia, my friend. I appreciate the hard work he has put into this. I appreciate the chance to share these thoughts and work with him. We will welcome any questions, comments, ideas or suggestions from our colleagues as we wrestle with this bill in the coming days and, hopefully, have a vote soon which will be successful on this amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. I wish to thank Senator TOOMEY for his hard work, to be involved, informed, and to bring his expertise to the discussion we have had with our colleagues.

As he has been speaking we have been joined by our good friend Senator TESTER from Montana. Those of us who come from a gun culture State can put some of these myths to the side, if you will, and allow the facts to come out.

I think the most important thing about speaking today for a while is that we are not creating new law, we are improving old law. This is what we were sent here to do.

My father used to say the only thing that is new in this world is a pair of eyes. Everything else has been pretty much an improvement of what someone else has done. This is what we are trying to do. We are improving on a system which needed to be improved.

We spoke about the veterans, as Senator TOOMEY has. I didn't know how veterans were treated when they came home. We are in a war which has lasted longer than 12 years and counting. There are hundreds of thousands of

men and women who have put their lives on the line for us and come back with challenges. If they have been affected by this war, they are almost afraid to be evaluated because if they are not evaluated in a positive way, they could be discriminated against.

I think that is wrong unless in a process and procedure they are found to not be competent. We have 150,000 who perhaps were not notified of their rights. We need to make sure they have the appeal process available to them. When this legislation passes, every veteran coming back going through a court proceeding can say: Wait a minute. I went through a field process, and I think your evaluation is wrong.

We can't put them in a system they need to work the rest of their lives to undo. I think we owe that to our great veterans in this country. Again, it comes down to simply reading the bill, not making up things, and listening to organizations that may be using this fear tactic as a campaign to raise funds, finances, and money. I don't like to say that. I am a proud member of organizations. They do a lot of good and informing and teaching safety to young children. We do a lot of things.

I had the benefit of growing up in a town with a sportsmen's club called the Farmington Sportsmen's Club. My father was not a big sportsman, but he wanted me to be involved. He worked a lot and didn't have time. These people took me under their wing at a very young time and taught me to respect and to use firearms safely. They taught me to be totally responsible, such as when I should put a shell in the gun, when I should not put in a shell, when I should have it in my case. Also, they taught me when I should carry it in the woods and when I cross the fence the gun should be unloaded.

All of us have heard of horrific accidents. These are just little things. They ingrained this into me. A lot of these organizations do good deeds. When they put misinformation out, they do a disservice to law-abiding gun owners and the people who respect the right the second amendment provides. Senator TOOMEY has eloquently spoken about this, as well as Senator TESTER.

This is going to continue for some time, I am understanding, and we are going to be talking, Senator TOOMEY and I. We will be joined by other colleagues—Senators KIRK, SCHUMER, and TESTER—and we are inviting all of our colleagues to come down. If you have heard something from a constituent or from an organization, come down and talk to us about it. We will show you in the bill that it doesn't do what they have said.

The biggest thing we have heard is about the registration. It doesn't do that. Not only does it not do it, it even protects you more than you are protected today by law. We improve upon it. It doesn't take anybody's guns away. I think Senator TOOMEY talked about basically there are things he wouldn't vote for, nor would I. But

guess what. That is not in this bill. There will be other bills, other amendments, that all colleagues will have a chance to either support, if they are for more gun support, or oppose.

What we are saying is, this is one piece of legislation we know will make a difference by keeping guns out of the hands of those who have been adjudicated through a mental court system or a criminal court system. And we know about commercial transactions—people have used all different types of figures as to how many guns basically are transferred at a gun show or online. With the expansion of the Internet there are going to be more and more. All we are saying is that is the least personal of all transactions—on the Internet. I might not know you, Mr. President, but up in your beautiful State of Maine I may see something you have that I would like, and with the technology of this modern world today to make contact, hopefully, I would be able to purchase that. That is something I could never have done 20, 30, or 40 years ago. But I want to make sure also that gun is sent to a licensed dealer who depends on his livelihood by abiding by the law and making sure a background check is done on me before I can purchase or pick up that gun I bought from you. That only makes common sense.

I have heard a lot of things such as: Well, they can be charging a lot. Fees can be charged. We allow the person who is going to be doing that service for you to charge a fee. Let me tell you, as a businessperson, every one of us in business, especially retailers, knows exactly the value of every customer who walks through a door. You might say: Well, they are just shopping. My grandfather says: There is no such thing as a shopper. They are all buyers. They just don't know it yet. They are going to buy something. They walk through the store and they have a value. And if they have a value, you know what is going to happen? You are going to see people advertising: Please come and let us do your background check free for you. That is a service we want to give you. We want you to be right and make sure the right person gets it. And guess what. They might be buying something else. They might buy new boots or some camouflage gear for their son or buy their daughter a new outfit.

That is marketing. That is business. That is what it is all about. So don't let the naysayers say: Oh no, too much of a burden. Trust me, the markets have a unique ability to correct themselves and take advantage of a situation. As a retailer, when a customer—a buyer, not a shopper—comes through the door, we will sell them something. I know that.

So we are going to be happy to talk about this bill for a few days here. We want to invite all our colleagues down. We will be announcing the times we will be coming to the floor. In the meantime, to all of my colleagues, to

all who have been hearing all of these things and getting excited about we are going to do something to take your guns away or take your rights away or register you, that is false. That is a baldfaced falsehood. All we are saying is go online and read the bill. It is only 49 pages. We have even broken it down for you. If colleagues will do that, and bring those conversations to the floor, that is all we can ask. The facts will set you free. The facts will set you free.

We have worked hard. Our staffs have worked exceedingly hard. And I appreciate everybody—my good friend Senator TOOMEY, my good friend Senator TESTER, and the other Senators; Senator KIRK from Illinois and Senator SCHUMER from New York—who has worked so hard to find a balance. It takes us all, from the right and the left, from both sides of the aisle—Republicans, Democrats, and Independents—to work together to make this an American bill. It is not just bipartisan, it is for our country. It is to save children, it is to keep our society safe, and also to protect the rights of law-abiding citizens and law-abiding gun owners such as myself and the Presiding Officer.

With that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF BEVERLY REID O'CONNELL TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Beverly Reid O'Connell, of California, to be United States District Judge for the Central District of California.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, since the American people first elected President Obama, Senate Republicans have been engaged in a concerted effort to filibuster, obstruct and delay his mod-

erate judicial nominees. They have already, during the last 4 years, filibustered more of President Obama's moderate judicial nominees than were filibustered during President Bush's entire 8 years—67 percent more, in fact—and there is no dispute that President Bush was engaged in an effort to pack the courts with ideological extremists.

In connection with the wrongheaded filibuster of the nomination of Caitlin Halligan, an outstanding nominee to the DC Circuit, I urged them to abandon their misguided efforts that sacrifice outstanding judges for purposes of partisan payback. Regrettably, their response seems to be to expand their efforts through a "wholesale filibuster" of nominations to the DC Circuit and a legislative proposal to strip three judgeships from the DC Circuit.

I am tempted to suggest that they amend their bill to make it effective whenever the next Republican President is elected. I say that to point out that they had no concerns with supporting President Bush's four Senate-confirmed nominees to the DC Circuit. Those nominees filled the very vacancies for the 9th, 10th and even the 11th judgeship on the court that Senate Republicans are demanding be eliminated now that President Obama has been re-elected by the American people. The target of this legislation seems apparent when its sponsors emphasize that it is designed to take effect immediately and acknowledge that "[h]istorically, legislation introduced in the Senate altering the number of judgeships has most often postponed enactment until the beginning of the next President's term" but that their legislation "does not do this." It is just another foray in their concerted efforts to block this President from appointing judges to the DC Circuit.

In its April 5, 2013 letter, the Judicial Conference of the United States, chaired by Chief Justice John Roberts, sent us recommendations "based on our current caseload needs." They do not recommend stripping judgeships from the DC Circuit but state that they should continue at 11. Four are currently vacant. According to the Administrative Office of U.S. Courts, the caseload per active judge for the DC Circuit has actually increased by 50 percent since 2005, when the Senate confirmed President Bush's nominee to fill the 11th seat on the DC Circuit. When the Senate confirmed Thomas Griffith, President Bush's nominee to the 11th seat in 2005, the confirmation resulted in there being approximately 119 pending cases per active DC Circuit judge. There are currently 188 pending cases for each active judge on the DC Circuit, more than 50 percent higher.

Senate Republicans also seek to misuse caseload numbers. The DC Circuit Court of Appeals is often considered "the second most important court in the land" because of its special jurisdiction and because of the important and complex cases that it decides. The court reviews complicated decisions