

recognized to deliver his maiden speech.

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

The PRESIDING OFFICER. The Senator from Vermont.

#### USA FREEDOM ACT

Mr. LEAHY. Mr. President, the bill we just passed is a historic moment. It is the first major overhaul of government surveillance laws in decades that adds significant privacy protections for the American people. It has been a long and difficult road, but I am proud of what the Congress has achieved today. This is how democracy is supposed to work. Congress is ending the bulk collection of Americans' private phone records once and for all.

To my partners in the Senate on both sides of the aisle, I thank you. Senator LEE, whose name is on our bill here in the Senate, believes strongly in our constitutional system of government. He has worked tirelessly to advance this bill from the day we first introduced the USA FREEDOM Act. Senator FRANKEN has devoted himself to the transparency measures in the bill. Senator BLUMENTHAL shaped the FISA Court amicus provisions. This was hard fought, and they never wavered.

I also want to thank Senators HELLER, CRUZ, MURKOWSKI, DAINES, DURBIN, and SCHUMER, the other original co-sponsors of this bill. They have each worked to help advance this legislation and build the coalition we needed to finally get to our strong bipartisan vote in the Senate for passage. I must also mention Senator FEINSTEIN, who provided invaluable support to get this bill across the finish line. Of course, I also need to thank Minority Leader REID, who has never wavered in his strong support and responsible leadership.

On the House side, Chairman GOODLATTE and Congressmen SENSENBRENNER, CONYERS, and NADLER have been the kind of bipartisan partners on this bill that every legislator wants in their corner.

I also need to thank Senators WYDEN and HEINRICH and former Senator Mark Udall, who used their positions on the Senate Intelligence Committee to ask the hard questions behind closed doors and who have fought to end this program for so long.

While we have much work to do, we have accomplished something momentous today. We are a better nation for it.

I also want to thank the many staffers who have worked long hours on this legislation for nearly two years now. On my own Judiciary Committee staff, I thank Chan Park, Lara Flint, Jessica Brady, Hasan Ali, Patrick Sheahan, Logan Gregoire, Jonathan Hoadley, Joel Park and Kristine Lucius. My personal office staff, including J.P. Dowd, Erica Chabot, David Carle, John Tracy and Diane Derby, also worked hard on this effort, and I am grateful for that. I also want to thank Democratic and

Republican Senate staffers who have toiled countless hours on this effort, including Matt Owen, Mike Lemon, Wendy Baig, James Wallner, Josh Finestone, Scarlet Doyle, Ayesha Khanna, Alvaro Bedoya, Helen Gilbert, Samantha Chaifetz, Sam Simon, John Dickas, Chad Tanner, and Jennifer Barrett.

We not only worked across the aisle on this legislation, but we also worked across the Capitol. The bipartisan group of House staff who helped to craft this compromise bill and generated such an overwhelming vote on this legislation deserve enormous credit for their work: Caroline Lynch (who along with Lara Flint deserves a perfect attendance award for extensive negotiating sessions), Bart Forsyth, Aaron Hiller (whose wife deserves our thanks as she had a baby just weeks before the House considered the bill), Jason Herring, Shelley Husband, Branden Ritchie, and Perry Apelbaum.

I thank those at the White House who devoted countless hours including Josh Pollack, Jeff Ratner, Ryan Gillis, Michael Bosworth, and Chris Fonzone. I also appreciate the work of so many other executive branch officials at the Justice Department, Federal Bureau of Investigation, Office of the Director of National Intelligence, and National Security Agency who work so hard to keep our country safe and answered our questions at all hours of the day and night.

I also need to thank the many public interest groups, on all ends of the political spectrum, who stuck with us despite many challenges. There are too many to name, but without their energy and expertise, this reform effort would never have come to fruition. Likewise, the technology industry provided invaluable input and support for this legislation.

And finally, I would like to thank the dedicated staff in the Office of Senate Legislative Counsel, whose tremendous work in assisting us with legislative drafting often goes unnoticed and unrecognized. In particular, I want to thank John Henderson, Kim Albrecht-Taylor, and James Ollen-Smith for their assistance and technical expertise.

Seeing nobody else seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. AYOTTE). Without objection, it is so ordered.

#### CLIMATE CHANGE

Mr. WHITEHOUSE. Madam President, today I am here for the 101st time to urge this body to wake up to the threat of climate change. It is real, it

is caused by carbon pollution, and it is dangerous.

There is a legislative answer to this problem that my Republican colleagues should consider, and that is a carbon fee.

The unpleasant fact here in Congress presently, anyway, is that Congress is ruled by the lobbyists and the political enforcers for the fossil fuel industry. But outside this Chamber, where the fossil fuel industry's power is less fierce, there is considerable conservative support for a carbon fee.

Leading right-of-center economists, conservative think tanks, and former Republican officials, both legislative and executive, all say that putting a price on carbon pollution is the right way to deal with climate change. They know that climate denial cannot stand against the facts. As the Washington Post reported last month, prominent thinkers on the right are "increasingly pushing" for a climate policy based on conservative principles and on values such as property rights, market efficiency, and personal liberty. They recommend pricing carbon.

Jerry Taylor, a former vice president at the CATO Institute now leads his own Libertarian think tank, which is making the case for a carbon fee. He recognized that "the scientific evidence became stronger and stronger over time." He knows climate denial is not an option. He says that "because catastrophic climate change is a non-diversifiable risk, we should logically be willing to pay extra to avoid climate risks." Taylor points out that hedging against terrible outcomes is what we expect in our financial markets. Why should we not do the same for climate change?

Conservatives have also long agreed that government should prevent one group harming another. Conservative economist Milton Friedman still tops the reading lists of Republicans in Congress. Republican Presidential hopefuls still invoke his name to show their free market bona fides. Asked whether the government had any role to play in reducing pollution, Friedman said:

There's always a case for the government to do something about it. Because there is always a case for the government to some extent when what two people do affects a third party.

Friedman is describing what he called "neighborhood effects" or what many economists call "negative externalities." A negative externality is when two parties engage in a transaction and the result of that transaction causes damage to a third party—a third party that did not consent to the arrangement. That is an externality, and when the consequence is harmful, it is a negative externality. In a free society, wrote Friedman, government exists, in part, to diminish those negative externalities.

When the costs of such negative externalities don't get factored into the price of a product, even conservative economic doctrine classifies that

as a subsidy. For the polluters who traffic and burn fossil fuels, that subsidy is huge.

In a finding it describes as “shocking,” the International Monetary Fund estimated the true costs of fossil fuel energy, taking into account public health problems, climate change, and other negative externalities, and they added it up to a polluter world subsidy of \$5.3 trillion a year. The subsidy here in the United States for the fossil fuel industry will hit \$699 billion this year.

It is no wonder the fossil fuel enforcers wield their clout in Congress so energetically. At \$700 billion a year just in the United States, why would the big polluters not want to squeeze one more fiscal quarter, one more year of public subsidy out of the rest of us at \$700 billion a year? We usually talk about big numbers here in the Senate over a 10-year period. That is the way our budget works. Over a 10-year budget period, that is \$7 trillion. No wonder they are so remorseless.

From their point of view, lunch is good when someone else is picking up the tab, and Senate Republicans have been far too willing to let the polluters dine for free. Outside of this Chamber, however, conservative economists call such an enormous public subsidy a market failure. The price of fossil fuel energy does not match its true costs. That market imbalance artificially favors polluting fuels and their producers—picking winners and losers, if you will.

A carbon fee can make the markets more efficient and level the playing field for different types of energy. Anyone who really believes in a free market should favor a carbon fee. That is what makes it work.

Harvard Professor N. Gregory Mankiw has been an economic adviser to President George W. Bush and to Presidential candidate Mitt Romney. He has pointed out that a carbon fee can help repair such a market failure and that “the idea of using taxes to fix problems, rather than merely raise government revenue, has a long history.”

In a 2013 New York Times op-ed, former Republican EPA Administrators Bill Ruckelshaus, Christine Todd Whitman, Lee Thomas, and William Reilly wrote: “A market-based approach, like a carbon tax, would be the best path to reducing greenhouse-gas emissions.”

A carbon fee can also generate significant revenue, and this could help achieve conservative priorities, such as lowering taxes. Art Laffer, one of the architects of President Reagan’s economic plan, popularizer of the famous “Laffer curve,” has looked at using a carbon tax to fund a payroll tax cut. He said: “I think that would be very good for the economy.”

Did you get that? Arthur Laffer, President Reagan’s economic adviser, said that a carbon tax, funding a payroll tax cut, “would be very good for the economy.” And as an adjunct, he

continues: “It would also reduce carbon emissions into the environment.”

It is a pretty simple idea. You can lessen the tax burden on things that you do want—employment, jobs, profits—and make up for the lost revenue by ending the subsidy of something you don’t want—pollution.

What is not to love unless you are a big polluter? Dr. Irwin Stelzer, an editor at the Weekly Standard and director of economic policy studies at the conservative Hudson Institute, said that for a tax-swapping carbon fee, “conservative support would depend solely on a desire to get the economy growing faster by shifting the tax burden from good stuff like work to bad stuff like pollutants.”

The fundamental conservative faith in the free market points to a carbon fee. A carbon fee priced at the true social cost of carbon would allow the market—not the polluters, not the government—to sort out which energy mix is best for society. On this question, Republicans have a choice to make: Are they real conservatives who will support a free market solution or are they the playthings of the fossil fuel industry, which will not pick up this question at all?

Well, if you do not like picking winners and losers, then quit favoring fossil fuel to the tune of \$700 billion a year just in America and level the playing field with a good, conservative, deficit neutral carbon fee. Level the playing field.

That is how George Shultz sees it. George Shultz was President Nixon’s Treasury Secretary and President Reagan’s Secretary of State. He and Nobel laureate economist Gary S. Becker made the case for a carbon fee in the Wall Street Journal:

Americans like to compete on a level playing field. All the players should have an equal opportunity to win based on their competitive merits, not on some artificial imbalance that gives someone or some group a special advantage.

That is why Secretary Shultz supports a price on carbon.

As an addition, there is also a huge economic win that will result, according to knowledgeable conservatives. Last year, George W. Bush’s Treasury Secretary, Hank Paulson, said, “A tax on carbon emissions will unleash a wave of innovation to develop technologies, lower the costs of clean energy and create jobs as we and other nations develop new energy products and infrastructure.”

Former Republican Congressman Bob Inglis has become a leading conservative voice in the fight against climate change. He specifically supports using a carbon fee and even introduced legislation when he was in Congress to price carbon and cut payroll taxes, the Laffer combination. Last year, he told the Dallas Morning News that this would create economic opportunity.

He said:

[W]e are discovering in climate science . . . that there is a risk that we can avoid from

the creative innovation that comes from free enterprise. We have a danger and an opportunity. As a conservative, I say what a great opportunity to create wealth, innovate, and sell innovation around the world.

By the way, Representative Inglis’s dedication to this issue recently earned him the John F. Kennedy Profile in Courage Award. I offer him my sincere congratulations. It does, indeed, take courage to come out from behind the veil of skepticism and denial to face the plain truth and to propose real, concrete solutions. That is especially true when the fossil fuel industry wields such relentless, remorseless power over the Republican Party today.

President Obama’s Clean Power Plan is at last putting an end to the free lunch for the fossil fuel industry. This ought to motivate the industry to rethink its inequitable, subsidy-ridden business model. Which is more efficient, anyway—government regulation or proper market pricing?

As American Enterprise Institute scholars Kevin Hassett, Steven Hayward, and Kenneth Greene put it, “Because a carbon tax would cause carbon emissions to be reduced efficiently across the entire market, other measures that are less efficient—and sometimes even perverse in their impacts—could be eliminated . . . As regulations impose significant costs and distort markets, the potential to displace a fairly broad swath of environmental regulations with a carbon tax offers benefits beyond [greenhouse gas] reductions”—i.e., economic benefits.

Republicans in Congress have a real chance to help remake the U.S. energy market under conservative, free market principles. As far back as 1992, former Chairman of President Reagan’s Council of Economic Advisers, Martin Feldstein, wrote in the Wall Street Journal:

Although a general carbon fuel tax is moot for the moment, the idea will not go away. If carbon dioxide emissions are to be reduced further in the U.S., such a tax will achieve the goal with less economic waste than new bureaucratic hurdles.

Why don’t today’s Republicans abide by this conservative principle? As Douglas Holtz-Eakin, CBO Director under the prior Republican Congress and economic adviser to our friend Senator McCAIN’s Presidential bid, wrote in the National Review, “In the bad old days, Democrats bad-mouthed trading systems and price mechanisms; Republicans opposed rifle-shot subsidies and mandates. Weirdly, conservatives have a need to relearn these lessons.”

Well, the carbon fee is right in line with Douglas Holtz-Eakin’s lessons to be learned.

On June 10, I will introduce my carbon fee proposal at an event hosted by the American Enterprise Institute. I hope that once my colleagues see the details, they will take seriously the promise of a free market solution to climate change. For any Senator who wants to engage on this issue, I am interested. I will gladly work with any

Republican colleague. What we cannot do is stay in denial. For both our environment and our economy, and indeed our honor, we cannot afford to keep sleepwalking. It is time to wake up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

#### USA FREEDOM ACT

Mr. TOOMEY. Madam President, I rise today to speak on H.R. 2048, the USA FREEDOM Act. I want to put it in some context and discuss why I voted the way I did today, but first, a little background.

It has been now more than a decade since Al Qaeda launched its deadly attacks on U.S. soil that we all remember so well, killing 2,977 people in New York City, in Washington, DC, and just outside of Shanksville, PA, injuring about 2,700 more, and taking away far too many parents, children, wives, husbands, families, and friends.

As we gather here today, we face other grave threats as well. One of the most grave threats is the threat of the Islamic State of ISIS. Secretary of Defense Hagel described it this way. He said ISIS is “beyond anything that we’ve seen” and constitutes an “imminent threat to every interest we have.”

We know this is a brutal group. They behead people. They crucify people. They burn people alive. They systematically sell young girls into slavery. They control large regions in the Middle East now. They have their sights set on attacking the United States.

We know there are radicalized ISIS sympathizers and adherents here in the United States. Many of them are eager to carry out this group’s destructive ambitions right here in our own country.

We know ISIS has the resources to carry out attacks on our homeland. Al Qaeda spent about half a million dollars. That is what it cost them to plan and execute the entire attack on the World Trade Center and the Pentagon. ISIS has amassed a \$2 billion fortune—4,000 times as much money as Al Qaeda spent on September 11. ISIS collects something on the order of an additional \$1 million to \$2 million every day through the variety of means it has because of the land it controls. So this is a very serious threat.

Like any other threat, we have an obligation to protect the American people from this to the extent we can. In the process, we have an obligation to strike an appropriate balance between the national security we owe our constituents, the American people, and the robust civil liberties we ought to protect because they are enshrined in our Constitution and important to our country. In my view, section 215—the controversial part of the USA PATRIOT Act—appropriately struck that balance.

The best policy we could have pursued this week would have been to reauthorize section 215 in pretty much

the form it has been in. If we had done so, we would have been repeating what we had done many times before by overwhelming bipartisan majorities I think seven previous times. In 2005, 2006, 2009, 2010, and 2011, Congress reauthorized the USA PATRIOT Act, including section 215. Congress did that because there is nothing radical about section 215 or the PATRIOT Act. This—what became a very controversial section recently—simply gave our national security officials the same kind of ability to access documents, reports, and other tangible items when investigating a potential international terrorist attack that a grand jury has and has long had when investigating ordinary criminal events such as a car theft.

It is important to note what section 215 did not authorize. It did not authorize the NSA to conduct wiretaps or listen in on any phone conversations. That has never happened. Despite that, there has been rampant misinformation about the telephone metadata program, as it is referred to, that was conducted under section 215, so I want to discuss that a little bit.

I think one of the most important things to stress here is that this metadata program contained only information a third party had. It was not private information that an individual possessed; it was third-party information held by a telephone company. What is that information the phone companies have always had? It is a phone number. It is a date and time of a call. It is the duration of a call. It is the number being called. That is it. That is the sum total of all of the information in this so-called metadata program. Because that is all the information, it was completely anonymous. Not only did it not include any context of any conversation—that was not possible. Conversations have never been recorded, so the contents have never been captured. But it also did not contain any identifying information with the phone numbers. There are no names, no addresses, no financial information. There is no information that would in any way identify anybody with any particular number.

So what did the government do with the metadata it had received? Well, it stored it all in a big database, on a big spreadsheet with all of those numbers. That is all it was, was a lot of numbers.

When the government discovered a phone number from a known terrorist, when a group of special ops American forces took down a terrorist group somewhere and grabbed a cell phone, then the government could conduct a search of the metadata, but first a Federal judge would have to give permission.

After running the search to determine whether in that metadata there had been phone calls between the known terrorists and numbers in that database, even after doing the search, the government still had no information identifying the phone number be-

cause that is not in the database. Of course, as I said before, certainly there was no content because content had never been recorded.

But a link might be established—and if it were to be established, if Federal investigators discovered that the known terrorist was in regular phone communications, for instance, with someone in the United States, then that fact could be turned over to the FBI, and the FBI could conduct an investigation, which might be a very useful investigation to have.

Well, we have had a number of officials who have told us how important this program has been, the intelligence value we have received. President Obama, himself, explained that had the section 215 metadata program been in place prior to 9/11, the government might have been able to prevent the attack. Remember, we learned afterward about our inability to connect the dots. This was a program that was designed to enable us to connect those dots.

Even the critics of this program—which, as we know, there are many—have never suggested this program was in any way abused, that any individual person had their rights violated, that there was any breach. That case has never been made, not that I have heard. Given the value of the program—as we have heard from multiple sources—and the complete absence of any record of any abuse of the program, in my view, Congress should have reauthorized this program, including section 215.

But, instead, we have passed an alternative, and that is the USA FREEDOM Act. I voted against this measure today because I am concerned the USA FREEDOM Act does not provide us with the tools we need at a time when the risks have been as great as ever. Let me just mention some of these.

First, under the USA FREEDOM Act, it is entirely possible that the government may not be able to continue any metadata program at all. I say that because the bill explicitly forbids the government from maintaining the database that we have been maintaining and instead the bill assumes that private phone companies will retain the data, and then the government will be able to access that data as needed.

But there is a problem with this assumption. The problem is the bill doesn’t require the phone companies to preserve any of this data. Under the USA FREEDOM Act, the phone companies could destroy the metadata instantaneously after a phone call occurs.

They have a regulatory obligation to keep billing information, but a lot of bills are unlimited calls with a single monthly charge. They have no statutory or regulatory requirement to retain the records of these calls. As currently practiced, I am not aware of any phone companies that retain this data for the 5 years our intelligence officials believe is the necessary timeframe to provide the security they would like to provide.