

Drug cases made up about one-third of our caseload, and I had an opportunity to see firsthand the devastating impacts of drug addiction.

Recent statistics have shown that almost half of all high school students have used addictive substances, and synthetic drugs are a growing problem in Minnesota and across the country. A recent survey of 15,000 Minnesota high school students found that 26 percent have used illegal drugs, and of that group, 12 percent have used synthetic drugs.

The problem with synthetic drugs, which we have realized as I have done events with law enforcement in places such as Fargo and in places such as the suburbs of Minneapolis, is that many times people who buy these synthetic drugs get much worse drugs than the actual substance. They get much harder-core drugs, much more difficult drugs—drugs that cause them to hallucinate and drugs that cause them to either kill themselves or to hurt others. That is why I have reintroduced bipartisan legislation with Senators GRAHAM, FEINSTEIN, and GRASSLEY that would make it easier to prosecute the sale and distribution of new synthetic drugs that are analogues—or substantially similar to current illegal drugs.

What we are looking at is the fact that the people who sell these drugs or manufacture them just keep changing a compound here or there so they can skirt the law. What we are trying to do with this bill is to make it easier to prosecute the new drugs that are substantially similar. The Supreme Court actually very recently issued a decision in *McFadden* focused on the mens rea standard in analogue drug cases.

My bill, the Synthetic Abuse and Labeling of Toxic Substances or SALTS Act is focused instead on the underlying factors for what makes something an analogue drug. Why do we need this new legislation? Because expert chemists are able to slightly alter the chemical makeup of synthetic drugs so they are no longer on the list of banned substances. To address this, current law provides the DEA with the mechanism to prosecute the sale and distribution of drugs that are analogues—analogues—that are substantially similar to controlled substances. However, the law specifically says that an analogue drug does not include any substance “not intended for human consumption.” This can be a big problem because synthetic drugs often are explicitly marked as “not intended for human consumption.” But manufacturers, distributors, sellers, and abusers of these substances all know exactly what to do with them—ingest them or snort them to get a dangerous and many times unpredictable high.

The SALTS Act amends the Controlled Substances Act to allow consideration of a number of factors when determining whether a controlled substance analogue was intended for human consumption, including looking at the marketing, advertising, and la-

beling of a substance and its known use. That is a much more honest way to look at what is actual consumption. You don’t just look at the fact that there is a label on it that says it because that is what the drug dealers do to protect themselves. Instead what you do is you look at what is actually going on here. You look at the marketing, advertising, and the labeling of a substance and its known use.

The bill also says the existence of some pieces of evidence that a substance was not marketed, advertised or labeled for human consumption should not stop prosecutors from being able to establish, based on all the evidence—the totality of the evidence—that the substance was, in fact, intended for human consumption.

New synthetic drugs constantly come onto the market. We need to give our law enforcement agencies the tools they need to combat them. This legislation will make it easier for prosecutors to demonstrate that a given synthetic drug is, in fact, intended for human consumption. We know that it is going on. We know that is why these guys are selling it over the Internet. They are trying to get around the law. They have actually been quite successful, causing many deaths, many people hurt, many people addicted.

So all this does is get to the facts. Is this really being used for human consumption or not? This legislation is going to make it easier for prosecutors to demonstrate with the totality of circumstances and not just the label that says it is not intended for human consumption—but looking at how it is sold, what it is used for, to make it easier to meet that standard. That is the only way we are going to go after these guys who are constantly changing the compounds to get around the law.

I would also like to take this opportunity to acknowledge the efforts, since we are talking about synthetic drugs, of the outgoing Administrator of the Drug Enforcement Administration, my fellow Minnesotan, Michelle Leonhart. Administrator Leonhart has had a long career in law enforcement, serving with the DEA since 1980 and as Administrator since 2010. She started her career back in Minnesota and has served in the DEA since, for a very long time, over 30 years.

I would especially like to thank the Administrator for her work on the prescription drug take-back issue. During her tenure, the DEA has coordinated a series of national events that have collected over 2,400 tons of unused prescription drugs—2,400 tons. That is, by the way, why we worked with the Administrator—Senator CORNYN and I—to develop legislation which passed to make it easier for take-out programs, to do them more routinely, but meanwhile 2,400 tons were collected. These events are critical in preventing drug abuse and overdoses and getting old medicines out of the cabinet where people who are not prescribed them

sometimes take them. I want to thank Administrator Leonhart for her law enforcement career.

Thank you, Madam President.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. CARPER. Madam 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 PETER V. NEFFINGER TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY

NOMINATION OF DANIEL R. ELLIOTT III TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD

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

The senior assistant legislative clerk read the nominations of Peter V. Neffinger, of Ohio, to be an Assistant Secretary of Homeland Security; and Daniel R. Elliott III, of Ohio, to be a Member of the Surface Transportation Board for a term expiring December 31, 2018.

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

The Senator from Delaware.

Mr. CARPER. Madam President, I am delighted to serve on at least one committee with the Presiding Officer, and we have had the opportunity of late to have a number of folks come before us who have been nominated to serve. One of those is Coast Guard VADM Peter Neffinger, and I am delighted today to rise in strong support of Admiral Neffinger to serve as the Administrator of the Transportation Security Administration, affectionately known as TSA.

The women and men of TSA work in a very challenging environment to keep our aviation system and those of us who use it safe and secure. The mission is made all the more challenging by the two difficult and diametrically opposed tasks that we ask them to perform. On the one hand, we ask the TSA to screen some 1.8 million passengers and their luggage every day, 24 hours a day, 365 days a year, without allowing

a single dangerous individual—not one—or dangerous item to get through. On the other hand, we ask TSA to perform the screening as fast as possible so that travelers do not miss their flights, luggage and cargo get to their destination on time, and everybody is happy. That is what we ask them to do.

TSA's job is, on most days, a thankless one, for which the Agency's employees are rarely commended but often criticized. Can TSA do a better job? You bet they can. We all can do a better job. We can do a better job in the Senate.

A couple of weeks ago in the Homeland Security and Governmental Affairs Committee, for example, we heard from the Department of Homeland Security's inspector general about several troubling security vulnerabilities at our airports. The IG's findings were more than troubling. They were unacceptable.

TSA can and must do better, but it is not all on them. We can help. Our Presiding Officer has oftentimes heard me talk about Home Depot: You can do it. We can help. The same is true here. TSA and employees can do it. We can help. We have an obligation to do that.

One of the ways we can help them do their jobs better is by voting in support of the President's nominee for TSA Administrator, Admiral Peter Neffenger. Admiral Neffenger has served as a commissioned officer in the Coast Guard since 1982, assuming the position of Vice Commandant in May of 2014. Throughout his nearly 34-year career in the U.S. Coast Guard, Admiral Neffenger has displayed exceptional leadership skills and the will to confront big challenges. These qualities will be very important if he is confirmed—and I hope he will be—as our next TSA Administrator.

Let me just take a moment if I can to share with my colleagues a few things that I learned about the admiral during the nominating process. First, Admiral Neffenger has a clear vision for TSA. He said the agency must strive to be an intelligence driven, risk-based counterterrorism agency.

Second, he has acknowledged the difficult challenges facing TSA today but, more importantly, he is committed to addressing them head on and striving for perfection. Finally, I learned that he is committed to working with Congress, with the inspector general, with GAO—the Government Accountability Office—and with the stakeholders to improve TSA.

But you don't have to take my word for it. Admiral Neffenger has received the support of all three former Secretaries of Homeland Security. One former Secretary of DHS, my old friend Tom Ridge, said the nominee's "experience is broad, his reputation superb, and his commitment to public service profound and unquestionable." After meeting with and getting to know Admiral Neffenger, I could not agree more.

(Mr. JOHNSON assumed the Chair.)

I thank Chairman THUNE and Ranking Member NELSON, who is here on the floor today, of the committee on commerce for working closely with our committee. The current Presiding Officer of our session here is our chairman of homeland security. I thank all of you for working closely with our committee on Admiral Neffenger's nomination. I thank Chairman JOHNSON and his staff for acting swiftly on this nomination so that it could be considered by the Senate today.

In less than 2 weeks, we will celebrate the 239th anniversary of our Nation's independence. On the days surrounding that celebration, millions of Americans will be traveling to spend time with their families and friends. We owe it to each of them to have a permanent, Senate-confirmed TSA Administrator in place. The President has given us a great name, a good man, and a good leader, and I urge my colleagues to join me in voting today for Peter Neffenger.

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

The PRESIDING OFFICER. The Senator from Florida.

TRAGEDY IN SOUTH CAROLINA

Mr. NELSON. Mr. President, before I speak about the two nominees who are before us this afternoon, I feel compelled to make a couple of brief comments about the tragedy that occurred in South Carolina. Sometimes it is difficult to understand why there still seems to be so much hatred in the world.

I remember the President and First Lady of Rwanda telling my wife and me what had happened that led up to that genocide back years ago in which 1 million people were hacked to death with machetes because of the enmity and hatred between two tribes, where people didn't think of themselves as Rwandan, they thought of themselves as Hutu or Tutsi. And that enmity, that rivalry turned into hatred, and the hatred was spurred on by hate-talk over the airwaves. So we know about that sad chapter of two peoples who did unimaginable things, and here we see this continues.

I am reminded—because it is emblazoned in my mind's eye—of three decades ago and looking out the window of our spacecraft back at Earth. From that perspective, when you look back at Earth, which is so beautiful and so colorful, so creative as it is suspended in the middle of nothing, you don't see racial divisions, you don't see religious divisions, and you don't see ethnic divisions. What you see is this beautiful creation. My mind's eye carries that view constantly and that reminder that we are all in this together. Yet, on the face of the Earth, we always want to divide; we always want to separate; we want to say: You are different than I, and, as a result, I am going to take it out on you. The great genius of America is that we have overcome a lot of that by assimilating people of different colors and different races and

different creeds and different backgrounds and different religions all together so that we think of ourselves as Americans first. In the world in which the Presiding Officer and I live—the world of politics—we have had a lot of that divisiveness, and we ought to be thinking of ourselves as Americans instead of as Republicans or Democrats.

This tragedy has riveted the Nation. It has riveted the Nation also on the question of the battle flag of the Confederacy.

This Senator's great-great grandfather, at the time of the Battle of Marianna, was well past 50 years. So he had not fought in the Civil War, but he was conscripted by the Home Guards to go into the Battle of Marianna, where he was taken prisoner and ended up in the northern prisoner-of-war camp, where so many of the prisoners died, in Elmira, NY. He probably survived because that winter that killed so many—the winter of 1864–1865—because he was past 50 years old, they probably did not put him in one of those cotton tents on the hillside where disease and cold took over.

But why should we attach our allegiance to a flag that represents separation instead of embracing "out of many, one"; "In God We Trust"; "e pluribus unum"—"out of many, one"?

It was announced in the press this afternoon that the Governor of South Carolina said: Let's take that battle flag down from the capitol grounds in Columbia, SC, and put it in a museum.

We will see the ensuing fight that occurs with regard to the legislature and changing the law. It was a few years ago that a very courageous Republican Governor led the effort to take that battle flag off the top of the capitol in South Carolina and put it at that Confederate monument still on the capitol grounds. That courageous Republican Governor lost his next election as a result of that.

So it is time for us to move on. It is time for us to start thinking about unity and coming together. As the Good Book says, come, let us reason together.

Those are the remarks I wanted to make.

I wish to speak about our two nominees.

The nominee for TSA whom the Senator from Delaware just spoke about, Coast Guard VADM Peter Neffenger, has obviously had a distinguished career. His reputation precedes him, with 34 years in a variety of capacities. He has expertise in critical areas of crisis management and port security, which will serve him well as the head of TSA, and I believe the Senate will confirm him today. He was involved in that disastrous oilspill in the gulf. He was the national incident commander and he helped lead that emergency response. We are still seeing the results of that spill, those of us on the gulf coast, and that disaster required coordination between all levels of government and all of its agencies, as well as the management of people and technology.

Recently, it has been pointed out, as we receive new information about the status and condition of that ruptured well, the incident command had to weigh the risk and make difficult choices with a lot of incomplete information. Well, he exhibited strong leadership then, and I believe he will give that leadership to an agency which needs that strong leadership now.

The next nominee we will consider is Daniel Elliott to be a member of the Surface Transportation Board. That is an important agency which helps ensure we have a strong and efficient rail network to move goods throughout the United States.

We know how vital the railroad industry is to our economy and getting goods to market. We have to do that, and we can't do it with just trucks. We need the bulk of the materials to be carried on the rails. Decisions made by the Surface Transportation Board have long-lasting impacts on our Nation's economic competitiveness, and that is why last week the Senate passed the Surface Transportation Board Reauthorization Act of 2015—to make the agency more efficient and effective.

We need individuals who are qualified to serve, and Daniel Elliott is such an individual. Earlier this year, he was nominated to be reappointed as a member of the Board. He previously served as Chairman. He also has had a great deal of experience as an attorney, including close to two decades litigating in the transportation sector. I ask the Senate to join in and support Mr. Elliott's nomination.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from Oklahoma.

MR. LANKFORD. Mr. President, I ask unanimous consent to address the Senate as in morning business for 10 minutes.

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

KING V. BURWELL DECISION

MR. LANKFORD. Mr. President, in the next couple of days, the Supreme Court is going to rule on a case that will have a long-lasting impact not only on just what health care is going on in this country but a long-lasting impact on how the law is to be interpreted. This is a law called the Patient Protection and Affordable Care Act. It was hurried through Congress before anyone had time to read it, and it contained multiple mistakes and contradictions.

Already this administration has unilaterally changed this law over 30 times to try to make it work, including completely rewriting a section about who gets the subsidies and who lives underneath the mandates. The law says the States that set up an exchange as a State exchange are under the subsidies and also have those mandates, but the administration claims that, no, it was intended for everyone.

Within days, the Supreme Court will release their opinion on this matter in a case called King v. Burwell and basi-

cally answer this one question: Does the law mean what the law says or does the law mean what the administration interprets it to mean?

This is not a political problem; this is a health care problem for millions of people. These days, the discussion seems to circle around on who is to blame. Well, people and families were hurt in the ObamaCare chaos because of the way this law was written. They are not worried about blame; they are worried about the issues facing their family in the days ahead. I have the obligation to do whatever I can to protect the people of my State from the harmful effects of this law, and there are many.

The people in my State distinctly heard people say 5 years ago: If you like your health care, you can keep it, except for the people who were forced off the State-run exchange that already existed in Oklahoma and were pushed out—ObamaCare, that is 5 years old, came after Insure Oklahoma, which is 10 years old—except for the people who have higher deductibles in my State, except for the people who now have higher premiums in my State. In Oklahoma this year, the requested rate increase for health care is between 11 and 45 percent, depending on the plan and the county you live in. This year's rate increase is between 11 and 45 percent.

In addition, physician-owned hospitals are trapped in time, not allowed to grow larger than what they were 5 years ago. Many people in my State like the physician-owned hospitals, and they want to see it succeed, instead of being slowly bled to death.

People struggle to find a job in places in my State because of this 40-hour requirement that hangs over them. They now have to find two jobs, each having about 28 hours, so they can keep up the amount of pay. Those individuals were hurt in this process.

Higher premium costs in the plans will soon come to those in unions because they have too good of health care insurance. In the short days ahead, union members who have premium health care policies will now get a penalty for having insurance that is too good for this administration.

By next year, the Independent Payment Advisory Board kicks off its work. Its sole responsibility is to find areas to be able to save money by cutting options for patients.

This is not a mess that can be fixed with one sentence—unless that one sentence says “the bill is repealed.”

So how do we solve this in the days ahead? Let me lay out a couple of ideas before the Senate because very soon we are going to be confronted with this when the Supreme Court actually responds.

First, do the basic things: Do no harm and stop the existing harm. We need to transition out of the subsidies and mandates of ObamaCare for millions of people who will lose their subsidy when the Court rules in favor of

the American people and the law of the United States—the clear text reading of the law.

Those individuals who were forced into ObamaCare are not the problem. We are not angry at those individuals. They are trapped in a mess that was made around them that they were forced into.

I will never forget a conversation I had with a Democrat in my State who was participating in a plan called Insure Oklahoma—who liked their insurance plan. It was a subsidized plan from our State. They pulled me aside 5 years ago and said: Is there any way I can keep the State-based plan I have now? And all I could do is look at him and say, no, you can't, actually, and that is not my decision. The Affordable Care Act which was passed and the Center for Medicare and Medicaid Services and HHS forced the people in my State out of a State-based solution for health care and into the larger national solution. Many Oklahomans lost their health care coverage and were forced out of it. It was already a subsidized system, and now they were taken from one plan and pushed into another. Let's do no harm, and let's try to help those individuals to be able to find their way back to a plan they like and help in that transition.

The second thing is pretty straightforward: States should have the freedom to choose any path to help their citizens. States should not have to check in with the Federal Government to ask permission to take care of their neighbors and citizens. How ridiculous is that; that a State leadership would have to go to the Federal Government to say we want to develop a plan to be able to help our own citizens, and the Federal Government says, no, they have to check in with us instead.

This is basically a repeal option for all 50 States. For those States that like it, we would say, if you like your ObamaCare, you can keep it, and for all the States that don't, they have their own way out to be able to take care of their own citizens.

The tax money that is being supplemented for those came from those States. Why shouldn't it be returned to those States and give the States the ability to be able to speak to that issue for their own citizens. We have to stop this mentality that only the people of Washington, DC, love the individuals in each State and want to care for them and be able to manage what is happening in that State. That State leadership deeply cares about their own citizens. Let's let them step up and lead.

Third is probably the clearest of all of them: People should have the freedom to choose any health care plan they want. What a radical idea, to actually hand people freedom, to hand people opportunities. Free of the mandates and the penalties, patients should be able to pick their own doctor and their own plan for their own family.