

I am glad to yield to the Senator from New York.

The PRESIDING OFFICER (Mr. LANKFORD). The Senator from New York.

Mr. SCHUMER. I thank my colleague. I just have a few more questions, and then I will say my piece.

First, I ask my colleague, is it his party that is in the majority in this body?

Mr. CORNYN. Absolutely.

Mr. SCHUMER. Indeed they are—sad, from our point of view.

Mr. CORNYN. We are delighted to be.

Mr. SCHUMER. Isn't it true that the majority has the ability to put any bill they want on the floor just about at any time? They can rule XIV. They can go through committee. There are many procedural ways to get a bill on the floor; is that right?

Mr. CORNYN. Again, Mr. President, the distinguished Senator from New York knows well the answer to that is yes.

Mr. SCHUMER. My final question is this: Since we have a Department of Homeland Security that needs funding and the issue of immigration is a controversial issue—one on which we relish a debate—wouldn't it be possible for the majority to pass a Department of Homeland Security bill without extraneous and controversial amendments, send that back to the House, and then move immediately to debate the immigration proposal that was added to the bill by the House or any other immigration proposal they wish to bring forward? I am not saying they will do it; I am just asking my dear friend, isn't that possible procedurally for the majority to do?

Mr. CORNYN. Mr. President, responding to my friend from New York, I would say theoretically the answer to his question is yes. As a practical matter, we know the House has passed a particular piece of legislation that we would like to take up. It is what it is. It is the hand we have been dealt. That is the base bill to operate from. There are, of course, procedures to change it.

Senator MCCONNELL, the majority leader of the Senate, has said he believes there should be an open amendment process, and I trust our friends across the aisle would have a chance to offer an amendment and get a vote. If they have the votes, they are going to win.

#### MORNING BUSINESS

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from New York.

#### DEPARTMENT OF HOMELAND SECURITY FUNDING

Mr. SCHUMER. Mr. President, the distinguished majority leader has stat-

ed that it is possible within the procedures of this Senate to pass a homeland security bill, as negotiated by our Committee on Homeland Security and Governmental Affairs—and I see the able head of the subcommittee here on the floor, the Senator from New Hampshire—and then move to immigration and bring it to the floor. So all of his arguments that we are afraid to debate immigration, that we don't want to debate immigration are false.

There is not one choice, there are two. One is to debate immigration fully and openly. The other is to play a game of hostage, to say: We are kidnapping Homeland Security, and now let's have a debate on how much the ransom should be.

No one in America wants us to legislate that way. I know my colleagues in the Senate didn't do that. It was the House that did it, led by thinking by the junior Senator from Texas. His view, as I have heard him say, is that what the President did on immigration is so awful that we should shut down the Department of Homeland Security as a way of forcing the President to go along with what the junior Senator from Texas wants.

When are our colleagues on the other side of the aisle going to learn? They followed Senator CRUZ a year and a half ago when he wanted to shut down the government over ObamaCare. They actually did shut down the government for a few weeks and were so widely excoriated by just about all Americans that they backed off. But they haven't learned. They are following the junior Senator from Texas, Mr. CRUZ, into a cul-de-sac at best and over a cliff at worst.

We are happy to debate homeland security but not with a gun to our head or the President's head; not to say: If you don't do it my way, I am going to shut down the government. The vast majority of Americans—Democratic, Independent, Republican, North, East, South, West—don't believe that is how we should legislate. I am surprised—I am almost shocked, with some of the wisdom we have in the leadership of this body, that they are allowing that to happen. We will not. We have the ability to block it, and block it we will. We will not play hostage. We will not risk shutting down Homeland Security—as I am sure my colleague from New Hampshire will talk about—a vital Department. We will not let their being upset with DREAM kids jeopardize our safety with ISIS. We will not let that happen.

I urge my colleagues on the other side of the aisle to pass the bill that has already been put on the floor—a clean Homeland Security bill—then they may decide to put immigration on the floor, and we will be happy, happy, happy to debate it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. McCASKILL. Mr. President, I have to say that I am a little confused

about what is happening right now. The Republican Party is in charge—totally in charge of Congress. I am sure Speaker BOEHNER's and Majority Leader MCCONNELL's staffs talk on a daily basis. I am sure they are talking, coordinating, and realizing the Republican Party now has the responsibility of showing this country they can run Congress.

So what do we do right out of the gate? We threaten to shut down the Department of our government that protects our homeland while ISIS is burning prisoners alive on film? The irony of this is Republicans are in charge. All they have to do is present a clean funding bill for Homeland Security, and the very next day take up immigration reform and debate it. But they are trying to play a political trick and trying to make it look as if somehow their disagreement with the President on immigration trumps the protection of our country and that somehow we will all go along with that.

Speaker BOEHNER mentioned me. My friend and my colleague from Texas just mentioned me. Yes, I said it. I am uncomfortable with the President issuing Executive orders such as this—no matter what party it is, no matter who the President is. But what I said when I made that statement is—I pivoted, and I said: Do you know how we prevent that from happening? We have a House of Representatives that is willing to take up and debate immigration reform. This body passed a bipartisan immigration reform bill by a wide margin. It wasn't even a squeaker. Many of my Republican colleagues voted for it, understanding this is a public policy area in our country that needs to be addressed.

We can't make it a political punching bag on either side. My party can't say: We are for the immigrants; we get their votes. And the Republican Party can't say: Well, we are for the tea party, and we are against all immigrants. We need to come together and do public policy in a system that is broken. The bill we passed here was amazing in terms of border security. But Speaker BOEHNER wouldn't take it up for more than 18 months. Speaker BOEHNER wouldn't even allow it to be debated on the floor of the House.

Now the Republicans are in charge. Do they take up immigration reform? Do they have a proposal? By the way, that is the way you get rid of the President's Executive order; that is, we do our jobs. We do our job. It is a little bit like "replace" for health care. I have heard repeal and replace for 4 years. Has anybody seen replace? Has it been identified anywhere? If it is out there, I would love to see it. It has been talked about a lot. The same thing for immigration. If you don't like what the President has done, then put up a bill and let's debate it.

By the way, the Republicans have the power to do that immediately after we fund Homeland Security. We don't have to talk about anything else. We can

stay on immigration reform and pound out a compromise and public policy that won't please everyone but will do exactly what the American people want us to do, and that is find a compromise that works.

As countries around the world have united in their opposition to ISIS and the barbarians who are participating in ISIS activities, as all of our allies and some who haven't traditionally been our allies are beefing up their cyber security, their border security, beefing up their homeland security, their airport security, adding more resources, what are we doing in America? Talk about a mixed signal—we are threatening to shut ours down. We are threatening to shut ours down to score political points.

I know there would be tough votes on immigration reform when we debate it, for me in my State and for many in their States. We had those tough votes last year and the year before. We pounded out a bill that nobody loved, but it was pretty good. It made sure, by the way, that people who had broken the rules went to the back of the line. If you want people who break the rules to go to the back of the line, then let's get busy on immigration reform. But this is exactly the nonsense that frustrates Americans—threatening to shut down a vital part of protecting our country in the name of politics.

The notion that the senior Senator from Texas, the assistant majority floor leader, just said—that we were denying a debate—is absurd on its face. We debate whatever the Republican Party wants us to debate now. They are in charge. So step up, fund Homeland Security, and move on to an immigration debate. You will find a lot of willing partners trying to find a way forward but not with this gamesmanship. It is not going to happen. It isn't going to happen because homeland security is too important, especially at this moment in our history.

I yield the floor.

The PRESIDING OFFICER. The Senator of New Hampshire.

Mrs. SHAHEEN. Mr. President, I appreciate the remarks from the Senators from Missouri and New York because I think they reflect my sentiments as well. The senior Senator from Texas suggested that we don't want to debate immigration. We are happy to debate immigration. In fact, I would love to debate immigration reform with our colleagues. But the bill before us is not about immigration reform. It is about whether we are going to fund the Department of Homeland Security. The fact is many of the issues the senior Senator from Texas raised about immigration were addressed in the comprehensive immigration reform bill this body passed in 2013. I am happy to go back to that debate, but that debate should not come in place of our willingness to fund national security and the Department of Homeland Security. That is the issue that is before us today, and we should not hold up our

willingness to fund the Department because there are certain Members of the Republican Party in the House and Senate who want to talk about the President's Executive action. This bill is not about that. It is about whether we are going to fund the Department of Homeland Security.

I thought it might be instructive to point out some of the changes Congress has made which are included in this bill and which actually strengthen border security, since that is one of the concerns that has been raised. Over the past 10 years, Congress has gone to extraordinary lengths to secure our borders against the threat of smugglers, of human traffickers, and of illegal immigrants.

Since 2005 the combined budgets for Customs and Border Protection and Immigration and Customs Enforcement have grown by an astounding 97 percent—97 percent—from about \$8.5 billion in 2005 to more than \$16.7 billion today.

In fact, the combined budgets for these two border security agencies now account for more than 42 percent of the entire discretionary appropriations of the Department of Homeland Security. But Congress just hasn't thrown money at the problem. We have made wise investments to ensure our borders are more secure than they have ever been.

Since 2011 Congress has steadily maintained 21,370 Border Patrol agents. That more than doubles the size of this force since 2001. Over the past 2 years Congress has added 2,000 Customs officers to help stop the flow of illegal drugs and prevent human trafficking while still facilitating legitimate trade.

I have been to the San Ysidro border crossing in San Diego. I have seen the advanced technologies that have been implemented to make sure that legitimate trade can get across the border yet stop those people who are coming illegally.

Congress has deployed enhanced border security technology, including integrated fixed towers, remote and mobile video surveillance systems, tethered aerostats, and other technology to secure our southern border.

We have also funded the construction of 652 miles of vehicle and pedestrian fencing at critical locations determined by the Border Patrol agents on the ground. The Department's ability to detect illegal border traffic has grown substantially due to simultaneous investments in airborne assets, including Blackhawk helicopters, multirole enforcement aircraft, and surveillance planes critical in the war against drugs, as well as nine unmanned, unarmed Predator aerial systems.

Since 2011 Congress has provided more than \$721 million above the President's request for these important airborne assets that strengthen our border security. In the bipartisan full-year budget that Senator MIKULSKI and Congressman ROGERS negotiated last De-

cember—the same bill that Senator MIKULSKI and I have introduced in this session of the Senate—we included those critical investments made to continue those efforts to secure the border. These investments will not occur or they are going to be delayed if we have a short-term budget, if we continue with a continuing resolution and, heaven forbid, if we shut down the Department of Homeland Security, which some of the Members of this body and the House have suggested is not a problem for us to do.

The clean bill includes a \$119 million increase for Customs and Border Protection. This is the funding level that supports the largest operational force levels in history—21,370 Border Patrol agents and 23,775 CBP officers. The agreement restores funding cuts to CBP's Office of Air and Marine proposed by the administration. That enables them to fly more patrols along the border and to continue purchasing critical assets.

The clean bill also increases funding for the border security, fencing, infrastructure, and technology account by \$20 million to provide additional video surveillance systems and adapt surplus Defense Department equipment for border security purposes.

For Customs and Border Protection, a short-term budget also means that pending contracts for border security upgrades are going to be put on hold. When I met last week with CBP Commissioner Gil Kerlikowske, he told me that \$90 million in contracts for mobile and remote video surveillance technology—the very technology that is going to help us keep illegal aliens from coming across the border—is going to be put on hold due to funding uncertainty.

A clean, full-year budget bill provides an increase of \$700 million for Immigration and Customs Enforcement, the agency responsible for apprehending and detaining undocumented immigrants in this country. If we don't pass on full-year bill, ICE will have insufficient resources to maintain a statutorily mandated level of 34,000 detention beds for detaining illegal immigrants, the vast majority of which are criminals. They are going to fall over 4,000 beds short of that mandated level under a continuing resolution. Furthermore, they will have no funding to complete construction and continue operating new family detention facilities in Texas.

Now, 3,000 family detention beds are supposed to be completed in Texas to deal with the surge of unaccompanied children and families to the southwest border. The very people who are complaining about border security, who are complaining about illegal immigrants coming into this country are opposing the funding that would address that border security. It makes no sense.

The bill also increases ICE's capability to engage in domestic and international investigations with a \$67 million increase for antihuman smuggling

and traffic activities, to combat cyber crime, to combat drug smuggling, and to expand visa vetting capabilities. With a short-term budget, a continuing resolution, these additional investments will not be made. We should not be holding up this funding bill for the Department of Homeland Security with critical border protections in it because we have a few Members of the House and Senate who want to make this an ideological battle about the President's Executive action. Let's have that immigration debate, but this is not the place to do it.

**THE PRESIDING OFFICER.** The Senator from New Mexico.

Mr. UDALL. Mr. President, let me thank Senator SHAHEEN for her leadership on the Homeland Security bill. She has taken that over this year and learned it, knows the ins and outs of it. She is someone who truly cares about being fiscally responsible. She just recently pointed out to our caucus that if we pass the House bill with all of the riders in it, it would cost \$7.5 billion more and put us \$7.5 billion more into debt, which I do not think is a fiscally responsible move. So we should be taking a very hard look at these riders as they come through from the House.

I have come to the floor to talk about how important it is for us to pass a clean appropriations bill for the Department of Homeland Security. I wish to talk about how failing to pass a bill will impact the southern border, impact my State of New Mexico, where DHS plays a vital role in security, in business, and in people's daily lives. The men and women at DHS make sure commerce is conducted smoothly across our border with Mexico. They make sure workers can get back and forth. They inspect shipments coming into the country, and they protect our communities from drug smugglers and crime.

It is inconceivable to me that Republicans would threaten to stop funding this agency over a policy dispute with the President. I have heard Republican leaders say the era of shutdowns was over, but here we are again, rapidly approaching the date when DHS funding expires. We need an appropriations bill that does not disrupt this important work.

I talk to New Mexicans who live in the border communities. I talk to ranchers and farmers in my State. Border security is not theoretical. It is not a political game. It is crucial to safety. It is crucial to trade at our ports of entry, such as Santa Teresa and Columbus. In New Mexico a shutdown of DHS is a threat to our security, to jobs, and to our economy.

I have read some reports where congressional Republicans have said on the record that a delay in funding DHS would not be a big deal. They say most of the Department's employees are considered essential so they would still be working at our borders and screening airline passengers. That may be true, but those employees would not get

paid. I am not willing to tell our Border Patrol agents and TSA officers with families to feed that they still need to go to work, but they are not going to get paid because Washington cannot get its act together.

I know my constituents would feel a lot more secure in border communities if the Border Patrol officers were getting paid rather than worrying about their mortgages, their car payments, tuition payments, and other household expenses. Despite the Republican claims that DHS will not actually shut down, there would be significant consequences if Congress failed to fund DHS.

Consider what would happen to the Federal Law Enforcement Training Center, FLETC as they are called out in New Mexico. FLETC serves as the law enforcement training academy for 96 Federal agencies. FLETC in Artesia, NM, trains all of our Border Patrol agents and Bureau of Indian Affairs police officers.

If we fail to fund DHS, FLETC training grinds to a halt. This will impact every Federal agency whose law enforcement officers must complete basic training before they can be deployed in their posts of duty. A delay in training impacts securing the Nation's borders, aviation security, protecting our Nation's leaders and diplomats, securing Federal buildings, and other countless Federal law enforcement activities.

The economic impact is huge. Over 3,000 students, 350 of them in Artesia, NM, are expected to be in training at the end of February. If DHS is not funded, they have to go back home. This will cost about \$2.4 million in airfare to send students back to their agencies, and then turn around and fly them back to FLETC when Congress does its job and funds DHS.

Regardless of your views on immigration policy, wasting law enforcement's time and taxpayer money does not improve our security. Artesia is not a big city. Its economy relies on FLETC. The students spend their money at local businesses. Many residents are contract employees at the facility. If FLETC closes, it has a real impact in our community.

As a New Mexican, I am appalled that a DHS shutdown is even being considered. We cannot risk our national security, our community safety, and our border commerce just so Republicans can prove some sort of inside-the-beltway point about how angry they are about immigration reform. The House Republican bill threatens to deport millions of people who have been living and working and going to school in our country for many years. The Senate should choose a different route: Put a clean bill on the floor, allow an open amendment debate, and enact a bill the President can sign before any shutdown occurs.

Few States understand the importance of comprehensive immigration reform as New Mexico does. We need a system that secures our borders,

strengthens families, and supports our economy. In fact, we almost had just that. The Senate passed a bipartisan bill in the last Congress, but House Republicans let it die—would not even take it up, would not put it on the floor.

That bill was not perfect. It did not satisfy everyone in every case, but that is what compromise means. That is what a bipartisan effort requires. Due to the House's failure to act on immigration reform, over 400,000 people in my State live in immigration limbo, all the while they work and raise families. Deporting these children and families is not a realistic option. We need to focus limited resources, as the President has done, on securing the border. We need to go after drug dealers and gang members and potential terrorists.

I and so many other New Mexicans are appalled that Republicans want to take out their anger on the DREAMers. They will not commit to real reform, but they will commit to chasing down children—innocent children—brought to this country by their parents. These are inspiring young people in my State, when I talk about these young DREAMers. They have worked hard. They have persevered. They know and love this country as their own.

They are young leaders such as Mabel Arellanes. Mabel came to Santa Fe with her mother from Mexico when she was just 6 years old. Mabel graduated from Capital High School. Her dream was to go to college, but her immigration status made that impossible. From the age of 15, Mabel worked to help other DREAMers. She helped pass the New Mexico DREAM Act. Mabel eventually did get to college and graduated from the University of New Mexico with honors. She is in her second year of law school now.

Another one of the DREAMers—this is Alejandro Rivera. Another DREAMer, he moved to Belen, NM, when he was 7 years old. After high school, Alejandro enrolled at the University of New Mexico. Undocumented, he could not get financial aid. He and his mother worked hard to pay tuition. Alejandro also volunteered to help other young people get an education and to follow their dreams. He is at work now on his Ph.D. in education. We may disagree on the specifics of immigration reform, but these DREAMers have earned our admiration. They should not be pushed back into the shadows by the House deportation bill.

The men and women who work to keep us safe, who screen more than 1 million people a day through our ports of entry, who patrol our borders and help secure our communities should not be a bargaining chip. In New Mexico we believe homeland security should be a priority, not a talking point. Secretary Johnson at DHS has been very clear. Key security initiatives are left waiting. His predecessors have also been very clear. Last week all three former DHS Secretaries, two of whom are Republican, sent a letter

to the Senate leadership urging them to pass a clean funding bill.

We live in a very dangerous world. We face terrorist threats at home and abroad. Recent events make that very clear. Now is not the time to play politics with homeland security. In fact, there never is a right time for that. The American people are watching. The people of my State are watching. They are watching these games. What they see is a lot of sound and fury that leads nowhere. What they want is a government that works.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. 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.

Mr. HATCH. Madam President, I rise today to discuss a matter of utmost importance: the Department of Homeland Security funding bill, H.R. 240.

We live in a world of extraordinary threats. Around the world, terrorists continue to devise ways to harm Americans and our interests. In Pakistan and Afghanistan, we see a resurgent Al Qaeda, which continues to plot attacks from increasingly ungoverned safe havens. Throughout the broader Middle East, we see Al Qaeda's affiliate groups—from Al Qaeda in the Arabian Peninsula to al-Shabaab—posing sophisticated new threats. In Iraq and Syria, we see the self-proclaimed Islamic State controlling vast swaths of territory, shocking the world with its brutality, and announcing its deadly serious intent to kill Americans. Within Western societies, we see the potential for radicalization at home, the danger of which has been made manifest in the attacks on Ottawa, Sydney, and Paris. Inside the United States, the Department of Homeland Security serves as our critical line of defense against many of these threats at critical points—from our borders, to our airports, to our coasts and our ports.

In the realm of cyber space, criminals, terrorists, and other nations' governments present sophisticated threats on a variety of fronts. Defending against these many serious threats requires efforts that range from securing critical infrastructure to guarding against the sort of espionage and blackmail that Sony recently experienced. These are enormously difficult tasks, especially in an ever-changing, high-tech operating environment. As the agency charged with protecting civilian networks and coordinating on cyber defense issues with the private sector, the Department of Homeland Security stands at the crossroads of our Nation's defense against this next generation of threats.

When the dangers we face are natural rather than manmade, the Department plays no less of a critical role. From

hurricanes and tornadoes to volcanoes and forest fires, the Department's component agencies, such as FEMA and the Coast Guard, play a critical role in the preservation of lives and property.

The House-passed bill provides the Department with nearly \$40 billion in funding—a level consistent with the Budget Control Act's spending limits. That money will not only fund the critical programs I have mentioned so far, but will also provide critical improvements on a wide range of fronts, including more border control agents, new ICE detention facilities, increased funding for E-Verify, more effective security screening at our airports, improved Secret Service protection, increased support for cyber defense, and important disaster relief.

These provisions all enjoy broad bipartisan support, and I commend my colleagues on the Appropriations Committee for their hard work on this package. But this work has been complicated by a troubling development: some of my colleagues—almost all of them Democrats—actively seeking to block consideration of this vitally important funding. Why? Only because they seek to protect a President of their own party who has acted lawlessly and overstepped proper constitutional bounds. Instead of following the examples of great Senators of the past who stood up to Presidents of their own party on behalf of the Constitution and the rule of law, today we have witnessed far too many Senators instead shamefully toeing the party line.

Our Nation's Founders knew, in the sage words of Montesquieu, that "in all tyrannical governments . . . the right both of making and enforcing the laws is vested in one and the same man . . . and wherever these two powers are united together, there can be no public liberty." For this reason, when drafting the Constitution, the Framers divided power between the executive, legislative, and judicial branches, and between the Federal Government and the States.

Despite these constitutional foundations, President Obama has decided that he "won't take no for an answer" when Congress refuses to go along with his agenda. In direct opposition to our centuries-old system of legislation and to the binding authority of the Constitution, the President has audaciously declared that "when Congress won't act, I will." And he has followed up these threats with a variety of unilateral Executive actions, many of which are flatly inconsistent with the law and the Constitution.

Over the past weeks and months, I have come to the Senate floor to speak out about a series of specific instances that exemplified the brazen lawlessness of this administration. This pervasive and illegitimate overreach has come in many different forms.

With his recent move on immigration, President Obama seeks not only to prevent enforcement proceedings against millions of people unlawfully

present in this country, but also to license their unlawful presence with affirmative work permits. In doing so, he not only ignores the duly-enacted laws of the land but also seeks to unilaterally replace them with his own contradicting policies.

The President and his allies in this Chamber want nothing more than to turn this into a debate about immigration policy, but that is not what this debate is about. Immigration is a complex and divisive issue, and Americans hold a wide variety of views on the matter that don't always divide neatly along partisan lines. Many conservatives—myself included—share some of the same policy goals as President Obama. Instead, this is a debate about loyalty. As Senators, where do our loyalties lie? Do we owe our loyalties first to the Constitution, to the protection of the American people, and to the goal of lawful and lasting immigration reform, or do we owe our loyalty, out of reflexive partisanship, to a President bent on dangerous unilateralism?

President Obama's Executive action is a direct affront to our system of republican self-government. The Constitution vests legislative authority with the Congress, not the President alone. Instead, the President is charged with the duty to "take care that the laws be faithfully executed." This is not a suggestion or an invitation for the President to enforce the law; it is an obligation for him to do so.

The President and his executive branch exercise prosecutorial discretion—the discretion to choose not to prosecute certain cases. But that power stems from considerations of fairness and equity in particular cases. Instead of requiring individualized determinations based on individuals' specific situations, the President's latest action sweeps up millions of people based on only a few broad, widely shared criteria.

An administration, of course, cannot prosecute when there are not sufficient resources to do so. But the Obama administration has never explained how these Executive actions will save money. In fact, the administration's own policy advisers have acknowledged that a work-permitting program will be expensive and will actually take away resources from law enforcement.

While no one disagrees that capturing and removing violent criminals should be our highest immigration priority, President Obama has gone much further and made current immigration law essentially a dead letter for millions of illegal immigrants.

Despite the administration's claim to the contrary, President Obama's action is not comparable to the Executive actions taken by President Ronald Reagan and President George H.W. Bush. Even the Washington Post editorial board found that claim by the White House to be "indefensible." Presidents Reagan and Bush simply implemented the enforcement priorities established in laws that Congress

actually passed. By contrast, President Obama sought to change the law before Congress has acted, so he cannot rely on Congress's authority to enforce the policy he prefers. Indeed, President Obama has acted directly in the face of congressional opposition, so we should call his Executive order what it is: an attempt to bypass the constitutionally ordained legislative process and rewrite the law unilaterally.

Perhaps the most persuasive case against this disturbing unilateralism was laid out by President Obama himself. On at least 22 different occasions since he took office, the President acknowledged that he lacked the legal authority to carry out these actions. As he himself said, by broadening immigration enforcement carve-outs, "then essentially I would be ignoring the law in a way that I think would be very difficult to defend legally. So that's not an option . . . What I've said is there is a path to get this done, and that's through Congress." He was right then; he is wrong now.

Faced with this brazen lawlessness, the House of Representatives passed a bill that both funds our critical homeland security priorities and fulfills our duty to respond to the President's lawless actions. This is a careful line to walk, and our colleagues in the House deserve praise for their admirable work. Their bill represents a responsible governing approach by funding our critical homeland security needs while preventing President Obama's constitutional abuse.

When faced with such a sensible approach, I have frankly been shocked and dismayed by the opposition that many of my colleagues on the other side of the aisle have expressed to this bill. On the floor today, many of my colleagues have indicated that they will oppose letting us vote on Homeland Security funding and even oppose allowing a formal debate and an open amendment process on the bill unless we allow President Obama's Executive action to come into effect.

Senators of both political parties have often stood up to Executive encroachment—not for purposes of partisan gain or political grandstanding, but in defense of Congress as a coordinate and coequal branch of government with its own essential authorities and responsibilities.

Implicit in the constitutional design of separating the Federal Government's powers is the idea that each branch would have the incentive and authority to resist encroachments from the other branches, ensuring that unfettered power is not concentrated in any one set of hands. The Founders recognized this as indispensable to preserving the individual liberty of all citizens. As Madison counseled in Federalist 51, "The great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others."

Senator Robert C. Byrd of West Virginia embodied this institutional idea as much as anyone with whom I have served. Although he helped to lead this body for more than half a century and left us less than 5 short years ago, I was surprised and dismayed to learn recently that nearly half of current Members never served alongside Robert C. Byrd.

Senator Byrd fiercely defended this body's prerogatives and independence against the encroachments of the executive branch—whether they were Republicans or Democrats in the executive branch. He neither censored his criticisms nor weakened his defenses based on the President's political party. Even in his twilight years, when President Obama took office with extraordinarily high approval ratings, Senator Byrd was willing to hold the new President's feet to the fire to defend the Senate's right to give advice and consent to nominees. He publicly chastised the White House for its excessive reliance on czars, observing that unconfirmed policy chieftains "can threaten the Constitutional system of checks and balances. At the worst, White House staff have taken direction and control of programmatic areas that are the statutory responsibility of Senate-confirmed officials."

How far we have fallen since the days of Senator Byrd. Indeed, this brinksmanship by my colleagues in the minority represents the height of irresponsibility. They risk our homeland security funding at a time when our terrorist enemies have repeatedly demonstrated a renewed capability to threaten the homeland. They risk our very system of constitutional government by sacrificing our power to make the laws and the President's duty to enforce them. They risk many of the immigration reform goals that are shared across party lines.

I am committed to making real progress toward implementing lasting immigration reform. I supported the Senate's comprehensive immigration bill in the last Congress. Even though that bill was far from perfect, I voted for it because I believe in working together to make much needed progress on this vitally important issue.

As I have long argued, the way to get real immigration reform back on track is not for the President and his allies to insist on his "my way or the highway" approach. Responsible legislating—not unilateralism—is the right way forward on immigration. The President's Executive action risked the opportunity for meaningful bipartisan progress and undermined the Constitution in the process. And now, his allies in this Chamber are apparently willing to risk the security of our Nation at a time of extreme danger just to close partisan ranks and provide political cover to the President.

If my colleagues in both parties are serious about protecting our Constitution's separation of powers and the liberty it ensures, if they are committed

to protecting Americans from the sorts of terrorist attacks we have lately witnessed with alarming frequency, and if they are committed to working together to achieve lasting immigration reform the right way, I urge them to reconsider their vote earlier today and to agree to—at the very least—debate this critically important bill.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANCHIN. Madam President, I rise in opposition to what seems to be a politically motivated Department of Homeland Security funding bill that we had to vote on. Funding the DHS should be a priority of Congress. It really should be. I know it is for all of us, and we cannot afford to play any of the political partisan games. It is not what people in this country want see. It doesn't do any of us justice whatsoever. We jeopardize the funding for third largest agency in the country that will risk lapse in not only our border security, which is most important to all of us, but also cyber security, also Secret Service protection, disaster response, FEMA, TSA in airports. Our Nation faces many threats from our enemies, both overseas and here at home, more so than ever before.

The world is a troubled place. We all go home and the No. 1 thing people are concerned about is the security of our own Nation. They see this evil going on, and now this horrific, barbaric action we saw that took place with the Jordanian pilot is unimaginable to us, that people could act this way to other humans.

With that being said, we have to stand united in supporting our values and protecting our citizens in the United States of America. This is not the forum for debate on immigration, and I have said that. I would hope some of my colleagues would feel the same way. We should fully fund the DHS, and this is one that has necessary levels that must be funded for the protection of our country. Then we can deal with our immigration system which is broken. I think we have stated that in the Senate. We have stood bravely, we voted, and we did changes and took some tough votes that needed to be made.

I agree with all of my Republican colleagues that our borders need to be secure. I don't think any of us disagree with that. It has to be secured first and then must stem the tide of illegal immigrants flowing into our country. We have seen them coming in all different sizes, races, and sexes. It continues to be something we should be concerned about.

I also agree with my Republican colleagues that President Obama should

not have executed action—he should not have used his Executive action to make changes in our immigration system. I think we should have doubled down and gotten this bill before us and get the House. I disagree with the House's decision not to even take up the bill we sent. In a bipartisan fashion it was debated on this floor, put together by Democrats and Republicans.

I have been here for 4 years. I haven't seen a bill worked more intensely than the immigration bill. I haven't seen the border security worked more intensely and Republicans and Democrats working together to make sure we have a Homeland Security that will secure our borders. That is the first time I saw the Senate truly work since I have been here and saw what the potential would be if we worked together. I was very excited about that. I thought for sure we would get a vote. Now we are back to the same, putting together who is for what and how we are going to posture on this one. I believe this is not the place and this is not the bill for us to get into a political squabble. I don't.

I know the House put us in a difficult position. It came over here, it had to be voted on, and it was. Now we have to get on to serious business. How do we take care and make sure our Department of Homeland Security has the necessary funding through an appropriations bill that both Democrats and Republicans worked on, not for another continuing resolution which does not let our different branches that are responsible for Homeland Security be able to upgrade and fight the battle we need to fight.

When we think about all of the new equipment that is needed for our forces out there, our National Guard, also our Coast Guard, what they need to be updated and upgraded to and the things that have been planned, it will only happen through a bill we pass on this side. It will not happen through a continuing resolution bill. It will be the same as we have had. The status quo will not change.

I am willing to work with all of my friends in here to have a good, clean Homeland Security bill that does the job and protects the United States of America. I am not willing to do a bill that will jeopardize the security of our homeland, which is what I think we have received. I think we can do better than that.

I urge all of our colleagues to work together to get a piece of legislation that helps protect America and keeps America safe and also puts the emphasis where it needs to be. That is what the people back home in West Virginia expect. I know people in New Hampshire expect the same from the Presiding Officer. I know we can deliver, working together in a bipartisan way, putting America first and not our politics. That is what they expect. I hope we are able to rise above this, and we will get through this. I think we will get to a clean bill that basically secures America and keeps us safe.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I come to the floor to join my colleagues to call for an end to any political gamesmanship being played over this bill to fund the Department of Homeland Security. I thank Senators SHAHEEN and MIKULSKI for their leadership on this issue. They have introduced legislation I am proud to cosponsor and that provides the critical resources the Department of Homeland Security needs today and for the remainder of 2015.

The issue of funding the Department of Homeland Security has become particularly important to my State. It is important to every State. New Hampshire cares a lot about the Coast Guard and many of the other agencies involved in security.

In Minnesota we have actually had active recruiting, a first from al-Shabaab that recruited young men in the State of Minnesota—and particularly in the Twin Cities—to go to Somalia and to fight, including becoming suicide bombers. We actually had 18 Federal indictments that came out of that. Half of those people have already been convicted because of the fact our community—our Somali community—has been able to work with the law enforcement positively. We have been able to get the information to prosecute those cases.

Then we go to Syria, something our Presiding Officer knows a lot about and is an expert on. The first American who was killed fighting on the side of the terrorists was from Minnesota. There is active recruiting that has been going on there. I have seen the ads of some of the recruiting from the FBI that has been going on there. In fact, we had an indictment of people involved in going to fight for ISIS. So this is real for us. This isn't just something that is thousands of miles away. It is happening in our communities.

Just last fall a young man from the Twin Cities area was arrested by the FBI at the Minneapolis-St. Paul International Airport as he was trying fly to Turkey. The next day the young man's partner was able to board a flight for Turkey and is thought to be fighting with ISIS.

These are real people, real terrorists. I think we all know when it comes to Homeland Security it is not just our national security that is at stake, it is also our economy. Our border with Canada stretches over 5,500 miles, the longest in the world. Over 400,000 people and nearly \$2 billion in goods and services cross our borders every day.

In Minnesota we understand the economic significance of cross-border commerce. Canada is our State's top international trading partner with over \$19 billion in total business across the border. Think of that—\$19 billion. Over 1 million Canadians visit Minnesota every year—that is a lot of Canadians—contributing \$265 million to our local

economy. A lot of them visit the Mall of America in Bloomington. Many of them go fishing up north. That relationship relies on a seamless United States-Canadian border with U.S. Customs and Border Protection keeping that border secure and efficiently screening all cross-border traffic.

We have made important strides in recent years with the trusted travel programs to make our northern border more secure while encouraging the cross-border tourism and commerce that is the lifeblood of so many Northern States, including Minnesota and New Hampshire. Withholding critical funding from DHS could threaten this progress, leading to a less secure border and also hindering economic opportunity. Withholding critical funding risks the safety of our people, the strength of our economy, and even our relationships abroad.

At a time when other countries around the world are stepping up their security, we can't be standing it down. Even a cursory look at world headlines shows the threats the United States and our allies face—from the terrorist attacks in Paris and Sydney to cyber attacks by North Korea. We need to be stepping up our security.

That is why it is so important we turn immediately to this bill to fund the Department of Homeland Security, a bill we can all agree on. The funding bill introduced by Senator SHAHEEN and Senator MIKULSKI and that I am proud to cosponsor does just that. It would provide funding for security while keeping crossings open for business. It would support 23,775 Customs and Border Protection officers working at our country's 329 ports of entry. It would ensure that we keep 21,370 Border Patrol agents at work keeping our country safe. It funds cyber security initiatives that protect our critical infrastructure and allows us to track down and punish hackers who are responsible for cyber crimes.

It provides over \$1 billion for security-related grants to States—we are talking about firefighters and first responders—and localities to help ensure they are prepared to handle both man-made and natural disasters. No one knows this better than our State when we had a bridge fall down in the middle of a summer day on August 1 in Minneapolis, MN. An 8-lane highway right in the middle of the Mississippi River, 13 people died, dozens of people injured, dozens of cars submerged in the water after dropping 111 feet. No one knows this better than our State after we had the floods we shared with North Dakota across the Red River, floods that nearly swept away homes and resulted in a lot of economic loss. That happened in our State. No one knows better than our State, where we have had tornadoes similar to so many places in the Midwest, sweep across the prairies, taking everything in their path. That is when you know what FEMA is all about. That is when you know what Homeland Security is all about. That is

why we must continue to fund this important Agency.

It is my hope we can come together to pass the Shaheen-Mikulski Homeland Security appropriations bill. We should never play politics when it comes to protecting our homeland. That is why former Homeland Security Secretaries from the George W. Bush and Obama administrations have come together—Tom Ridge, Michael Chertoff and Janet Napolitano—and all agree on the need to pass a clean bill. Anyone who is watching C-SPAN and says, What is she talking about—a clean bill? Did it go through the laundry machine? This is a bill that focuses on what it is supposed to focus on, which is funding Homeland Security. It doesn't have other provisions in it that are better debated on other bills, that are comprehensive and focus on these issues. This bill should not have those kinds of things on it. This bill is about Homeland Security, and we shouldn't be shutting down our security over political fights.

As Senators, chief among our responsibilities is to do everything we can do to keep Americans safe. As a Senator from Minnesota, no job is more important to me than keeping our State and our country safe. I was a prosecutor for 8 years. I know how much this means to people. I deeply respect the work of the Department of Homeland Security and what they do every single day to protect us. Those workers deserve the best. The people of America deserve the best. That is why we have to pass this bill.

I urge my colleagues to pass the Shaheen-Mikulski bill without delay.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MORAN. Mr. President, I ask unanimous consent to address the Senate in morning business for such time as I may consume.

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

#### CHOICE ACT

Mr. MORAN. Mr. President, I am on the floor today to speak about an issue that I spoke about just a few days ago, the Choice Act.

Let me take my colleagues back in history just a few months, just to last year. I don't imagine any of us don't remember the scandal the Department of Veterans Affairs was facing—the stories across the country of fake waiting lists, of services not provided, of the potential death of veterans while waiting for those services to occur. I also would think that at least many of my

colleagues would agree that for much of the past few years the Senate hasn't done much of the business it was designed to do and that needed to be done in our country.

But I remember a day in August of 2014 in which the Senate and the House of Representatives were successful in passing a bill. It is somewhat embarrassing to me to be on the floor praising the accomplishment of a bill passage. It is a significant part of what should be the normal course of business of the Senate.

But those of us—and I would put all of my colleagues in this category who care about the service men and women who sacrificed for the benefit of their fellow countrymen and came home to a Department of Veterans Affairs that failed to meet their needs. I have indicated that since I came to Congress, both in the House and the Senate, I have served on the Veterans' Affairs Committee. This is an issue that we need to make certain we get right.

Just this week, in fact this morning, we passed a piece of legislation, the Clay Hunt Suicide Prevention for American Veterans Act. That is an accomplishment. I remember the testimony of the two mothers in the Veterans' Affairs Committee who came to talk to us about the importance of this legislation, their experience as mothers, and the death of their sons by suicide.

In the time that I have been in Congress, it is among the most compelling testimony I have ever heard. The part that sticks with me the most is the belief by these two mothers that had the Department of Veterans Affairs done their work, their sons would be alive. What that tells me is the decisions we make and those decisions as implemented by the Department of Veterans Affairs in some cases—in fact in many cases—are a matter of life and death.

We saw the scandal that came about last year. We know the decisions we make have huge consequences on veterans and their families. We rejoiced—at least I did—in the passage of the Choice Act, which gave veterans the opportunity to choose VA services, to choose health care to be provided in their hometowns by their hometown physicians and doctors.

The criteria that is set out in the Choice Act for that to occur is pretty straightforward. It says if you live more than 40 miles from a VA facility, you are entitled to have the VA provide the services at home, if that is what you want. It says that if those services can't be provided within 30 days of the time you need those services, then the VA shall provide those services at home if you choose. You can see the hospital, you can be admitted to the hospital of your choice, and you can be seen by the doctor of your choice.

That was actually something to rejoice about, to be excited about—that this Congress and this Senate came together and passed what I know to be a

very significant and important piece of legislation. It is important for the reasons that common sense tells us it is important—that a veteran who lives a long way from a VA hospital or a VA facility can now get services at home. A veteran who had to wait in line for too long could now get those services at home.

The other aspect of that is that the Department of Veterans Affairs has told us time and again about the inability to attract and retain the necessary health care providers, the doctors and others who provide services to our veterans.

So one way to improve that circumstance is to allow other health care providers, those in your hometown, to provide that service.

The Choice Act was a good measure for the Department of Veterans Affairs to meet its mandate to care for our veterans, and the Choice Act was a good measure for veterans who live long distances from a VA facility, especially in States such as mine and the Presiding Officer's, where it is a long way to a VA facility.

So I remember the moment in which that bill passed and was sent to the President. Finally something good has come. A bill has been passed. Something important to our veterans is occurring.

But the reality is the implementation of the Choice Act has created many problems and, in my view, the Department of Veterans Affairs is finding ways to make that implementation not advantageous to the veteran but self-serving to the Department.

This is what catches my attention today. We are reviewing the President's budget, and within that budget is this language:

In the coming months, the Administration will submit legislation to reallocate a portion of Veterans Choice Program funding to support essential investments in VA system priorities in a fiscally responsible, budget-neutral manner.

What the President's budget is telling us is that there is excess money within the Choice Act. We allocated money—emergency spending—to fund the Choice Act, and the President's budget is telling us: Well, we think there is too much money in there. We are going to submit legislation to reallocate that money to something we think is a higher priority.

I don't expect many of my colleagues to remember, but I was on the Senate floor last week talking about a specific problem in the implementation of the Choice Act, and it was this: The Department of Veterans Affairs shall provide services at home to a veteran who lives more than 40 miles from a facility.

Well, the problem I described last week is that the VA has determined that if there is an outpatient clinic within that 40 miles, even though it doesn't provide the services that the veteran needs, that veteran, he or she, must drive to the VA, wherever that is