

Quoting what the President told an audience on July 25, 2011:

Believe me, the idea of doing things on my own is very tempting, I promise you. Not just on immigration reform. But that's not how our system works. That's not how our democracy functions. That is not how our Constitution is written.

On January 30, 2013, the President stated, “I am not a king. . . . I am required to follow the law.”

That same day he said:

If this was an issue I could do unilaterally, I would have done it a long time ago. . . . The way our system works is Congress has to pass legislation. I then get an opportunity to sign it and implement it.

Well, President Obama was right. The Constitution does not give the President authority to make laws. It is Congress's job to make laws, and it is the President's job to execute them. Clearly, based on these statements, the President knows that. He has reiterated that sentiment more than 20 times over the past few years. Yet a few months ago he decided to ignore the law and the Constitution in an attempt to make immigration law by Executive fiat. How can he possibly justify that?

Members of his own party were troubled by that decision.

“I have to be honest, how this is coming about makes me uncomfortable,” said a colleague from the State of Missouri back in November.

The junior Senator from Indiana said that “the President shouldn't make such significant policy changes on his own.”

The junior Senator from Minnesota admitted, “I have concerns about executive action.”

“I also frankly am concerned about the constitutional separation of powers,” said the Independent Senator from the State of Maine.

Many Democrats here in the Senate Chamber, as well as an Independent, have expressed their reservations and their concerns about how the President has proceeded. Democrats are right to be concerned, which makes it particularly troubling that Democrats are now trying to shut down the Department of Homeland Security to protect the President's overreach because, make no mistake, Democrats are refusing to fund the Department of Homeland Security unless funding is provided for the President's unconstitutional attempt to make his own immigration laws.

If Democrats don't like this bill, they should vote to debate the measure and offer amendments to fix the parts they don't like. Republicans are ready and willing to entertain Democrats' amendments. In fact, the Republican leader has offered to let Democrats alternate amendments with Republicans on a one-to-one basis. An open debate is what the Senate is known for on a big issue. If Democrats want to fund actions that even they have admitted are troubling, they are welcome to offer an amendment to provide that funding. They have that opportunity.

What we are talking about is the Republican leader, Senator McCONNELL, offering an open process—something that we have talked about since we became the majority, something that we were denied in the last session of Congress when we were in the minority. We have the opportunity to have an open debate, offer amendments, and vote on those amendments. That is precisely what majority leader Senator McCONNELL has put forward. He has given Democrats that option.

Let's put the bill on the floor. We will have a chance to offer amendments. If Democrats don't like what is in the bill, they will have an opportunity to offer amendments, have that debate, and vote.

Democrats need to stop their obstruction and move forward on this bill. Blocking all funding to the Department of Homeland Security is not a responsible solution, especially when the Democrats are blocking the bill solely to protect Presidential actions that the President himself has admitted are unconstitutional and outside the scope of his authority.

We can end all this gridlock that is existing right now on the Senate floor simply by the Democrats allowing us to get on this bill and end the filibuster. Give us an opportunity to debate and offer amendments. Let's have that debate—a debate that is clearly important to a lot of people across this country and certainly a lot of people here in the Chamber of the Senate. We are going to be denied that opportunity if the current filibuster and current blocking of even getting on that legislation continues by the Democrats.

FOREIGN POLICY

Mr. THUNE. Mr. President, I would also like to take a few minutes today to discuss the President's foreign policy or lack thereof. “Lack thereof” seems to be the most accurate description of the President's lead-from-behind foreign policy. Whether it is a Russian proxy war in Ukraine or the use of chemical weapons in Syria, the President is slow to respond and unclear about American goals even when he does.

Months after the ascension of ISIS—a terrorist organization so radical that even Al Qaeda considers it to be too extreme—the President still hasn't laid out a strategy for combating this threat. ISIS represents a horrifying new nadir in the annals of terrorism. There is apparently no act of brutality this organization rejects. Yet a clear plan for defeating ISIS has yet to be articulated.

This week the President is finally supposed to send Congress an authorization for the use of military force against ISIS. I look forward to examining that authorization. Since ISIS first emerged, the President has had the authority he needs to go after this terrorist group, but I think seeking additional authorization from Congress is

wise, and I hope it will help define his strategy for combating this enemy and supporting our partners in this fight.

America clearly cannot fix all the world's problems, but we can help. We can build a coalition, and we can lead. We can give our commanders in the field the tools they need to meet our clear and growing threats.

Six years of indecision, mistakes, and Presidential irresolution has diminished America's image with our allies. The triumph of the President's political calculus over clear military and diplomatic objectives has made the world less safe, not more. Now more than ever we need a clearly articulated foreign policy from the President and the commitment to back it up.

Later this week we will consider the nomination of Ash Carter to be Secretary of Defense. Dr. Carter seems to be a very capable individual, and I believe he will serve our country well. But changing personnel alone won't fix the President's foreign policy problems. Even a very capable Secretary of Defense cannot succeed if his hands are tied by the lack of a coherent strategy from the President.

As crises multiply around the world, the President needs to provide the leadership that is required from our Commander in Chief. Whether it is defeating ISIS, standing up to Russia, or confronting Iran's nuclear ambition, it is high time we saw the leadership from our President that our country needs and deserves.

I yield the floor.

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

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

DEPARTMENT OF HOMELAND SECURITY FUNDING

Mr. HEINRICH. Mr. President, funding for the Department of Homeland Security runs out in 17 days. Rather than working with Democrats to pass a clean Department of Homeland Security appropriations bill, many Republicans are prioritizing politics over our national security.

With threats emerging every day both at home and abroad, casting doubt on future funding for the Department of Homeland Security is a terrible idea. Shutting down DHS has real consequences, especially in border States such as New Mexico. A DHS shutdown would threaten public safety, hinder interstate commerce, hurt our economy, and jeopardize critical funding for State, local, and tribal government activities.

Some of my Republican colleagues are willing to let these consequences happen because they have an immigration policy disagreement with the

President. That is no way to govern, and it is not real leadership.

As a border State, New Mexico plays a critical role in protecting our homeland. DHS Customs and Border Protection agents and officers at New Mexico's two ports of entry at Columbus and Santa Teresa are responsible for maintaining our security and for screening vehicles and would-be crossers. These public servants put in long hours in order to keep all of us safe. They apprehend drug smugglers, human traffickers, and gang members. They also play a direct role in facilitating critical trade and interstate commerce between the United States and Mexico. That impacts our economy in New Mexico, particularly in Hidalgo, Luna, and Doña Ana Counties.

New Mexico is a growing international trade center and the Columbus and Santa Teresa ports of entry are key to growing the diversity of my State's economy.

Recently, a House Republican said that if we run out of DHS funding, "it's not the end of the world." I disagree, and so do many of my constituents.

Let me be clear about what a DHS shutdown would mean for New Mexico. It would impact our Southeast Federal Law Enforcement Training Center in Artesia. This facility trains our Customs and Border Protection agents and officers. It would also compromise sheriff and city police departments across the State who use DHS funding to increase personnel and purchase equipment. Moreover, DHS helps fund some of our most important security programs such as the New Mexico All Source Intelligence Center, a public safety partnership based out of Santa Fe that is designed to collect, analyze, and disseminate intelligence.

A shutdown would also risk important DHS grant funding for New Mexico at the Department of Homeland Security and Emergency Management. This agency works closely with DHS to aid communities after natural disasters. In times of crisis, DHS works hand-in-glove with the State of New Mexico.

For example, last year severe thunderstorms and floods caused disruption of oil and gas development, agricultural losses, and extensive damage to critical infrastructure across New Mexico, hitting counties such as Colfax, Eddy, Lea, Lincoln, Otero, San Miguel, Santa Fe, and Sierra.

FEMA, an agency under DHS, worked collaboratively to help these communities rebuild and recover. In fact, since 2002, New Mexico has received more than \$238 million in DHS grant funds. These resources provide statewide hazard mitigation assistance and help repair damaged roads, bridges, and low-water crossings after these disasters.

As current cabinet secretary-designate for the New Mexico Department of Homeland Security and Emergency Management Mitchell Jay puts it, a DHS shutdown would:

... have a very negative effect. We'll lose our grant funding for local and State emergency managers. We fund a portion of their salaries through DHS grants, and we can't, nor can the counties and municipalities, afford to absorb those costs at this time. ... We can't afford to lose our emergency managers, they're key representatives in our communities who help develop mitigation plans for all types of emergencies. They're our first line of defense should any emergencies occur at the local level.

These examples are just a glimpse at the security, economic, and emergency risks of allowing DHS funding to expire.

Former Department of Homeland Security Secretaries Tom Ridge, Michael Chertoff, and Janet Napolitano joined in a bipartisan call for Congress to act swiftly and remove uncertainty from an agency in charge of keeping us safe.

A Department of Homeland Security shutdown would also either furlough DHS employees or require many of them to work without a paycheck. That means men and women who work tirelessly to keep our Nation safe would have to live with the uncertainty of whether they are able to support their families.

DHS workers don't deserve that. They shouldn't be collateral damage in an ongoing ideological battle here in Washington, DC. I would like to believe a debate such as this would be about the merits of DHS funding and the DHS funding bill, but unfortunately that is not the case. This debate is about Republicans picking a political fight with the President over an immigration system we all recognize is broken. As a way to vent their frustrations, Republicans are unfairly targeting undocumented students known as DREAMers. At times such as this, one is forced to wonder if some on the far right fear DREAMers more than ISIL. But we are not a country that kicks out our best and brightest students. We are not a nation that separates families.

I have met many DREAMers over the past 10 years in New Mexico. They are smart, they are hardworking, and most of them don't know how to be anything but an American. They grew up here, and they want to give back. I have heard their stories. I have read their letters.

For example, there is a bright young New Mexican named Yuri. Her family emigrated from Mexico to the United States when she was 2 years old. As a student at Highland High School in my neighborhood in Albuquerque, Yuri volunteered in our community. She served as student body president. She graduated in the top 10 percent of her class, and she received the 2013 Sandia National Laboratories scholarship.

In 2013, she was approved for Deferred Action for Childhood Arrivals—known as DACA—and is currently studying chemical engineering at the University of New Mexico. She wants to use her degree to enter the medical field.

Less than 2 years ago, after much debate and compromise, the Senate passed a bipartisan immigration re-

form bill. That bill would have modernized our immigration system to meet the needs of our economy. It would have provided an accountable pathway to earn citizenship for the undocumented workers currently living in the shadows in our country. It would have dramatically strengthened security at our borders.

Accountable immigration reform received 68 votes in this body and demonstrated the kind of legislation and the kind of leadership that is possible when we work together. The American people are frustrated with the gridlock here in Washington, DC. Frankly, I don't blame them. We need pragmatic solutions to fix our immigration system, but withholding DHS funding and jeopardizing our national security is not a solution. In fact, I would say it is emblematic of what is broken. Instead of focusing on deporting some of our country's brightest students, I would urge my Republican colleagues in the House and in the Senate to direct their attention to the real threats our country faces—the gang members, the drug traffickers, the cyber hackers, and the terrorists. Let's work together to make sure the Department of Homeland Security is adequately funded.

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

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

Mr. CARDIN. Mr. President, I rise to urge the Senate to take up a clean Homeland Security appropriations bill and pass it without further delay. I know we have had several votes on the floor on proceeding to the bill, but I would urge the leadership to make it clear that we stand on record for a clean Homeland Security appropriations bill.

We have an obligation to protect the American people. Given the terrorist threat we face both at home and abroad, it is irresponsible to continue to fund the Department of Homeland Security with short-term budgets and bring them to the edge of an agency shutdown. We also should not force hard-working Federal workers to stand in the crossfire between Congress and the President.

Providing the resources our Federal, State, and local law enforcement officers need to carry out their vital around-the-clock mission should not be caught up in partisan political disagreements. We need a clean appropriations bill for the Department of Homeland Security.

We face a dangerous world today in light of recent terrorist attacks throughout Europe, Asia, and North America, and the ongoing threat of ISIS. I know I express the views of all Members of the Senate in expressing our deep condolences and prayers for

the Kayla Mueller family as we learn today of her fate at the hands of ISIS. ISIS is actively recruiting foreign fighters, who are being radicalized and then returned to their home countries, including countries in Europe and North America.

We need to fully fund without further delay, uncertainty, or another short-term budget the critical homeland security, law enforcement, and intelligence activities and programs of the Department of Homeland Security.

Mr. President, we are now 4 months into the fiscal year. One-third of the fiscal year is already over for the Department of Homeland Security. We should not keep funding DHS on short-term budgets. No agency or private business, for that matter, can effectively implement a budget and carry out its mission under this type of financial tightrope. How would you like to run a business not knowing whether your budget is going to be there starting March 1? How do you plan? How do you make commitments for the year to carry out your mission when you don't know whether you are going to have the budget support starting March 1 or whether it is going to be continued on a continuing resolution, whether you are going to have to go through a government shutdown or whether you are going to have a budget? You can't run an agency that way.

DHS Secretary Jeh Johnson has stated that if Congress continues to fund his agency on short-term budgets, it will harm its mission and programs at the agency. We created the Department of Homeland Security in response to the devastating attacks on our country on September 11.

For example, short-term funding may limit more aggressive counterterrorism efforts, weaken our cyber security protections against hackers trying to corrupt or steal our data, delay enhancements to aviation security, slow down new border security initiatives, and defer new grants to State and local law enforcement. DHS may have to delay or postpone contract awards and new acquisitions, which also hurts small businesses and our economy. DHS will have to scale back employee training and postpone the hiring of new personnel.

We have broad bipartisan support on almost all aspects of this \$40 billion Homeland Security funding measure. This legislation funds critical agencies, including the Coast Guard; the Transportation Security Administration, TSA; the Federal Emergency Management Agency, FEMA; the Domestic Nuclear Detection Office; and the Secret Service, just to mention a few of the agencies that come under the Department of Homeland Security.

Three former heads of the Department of Homeland Security, both under Democratic and Republican administrations, recently wrote a letter to Congress urging us to pass a clean Homeland Security appropriations bill and avoid another short-term funding

measure or, worse yet, a government shutdown of the Department of Homeland Security at the end of February.

Let me quote from a part of the letter from former Homeland Security Secretaries Ridge, Chertoff, and Napolitano, again representing both Democratic and Republican administrations:

[W]e write to you today to respectfully request that you consider decoupling critical legislation to fund DHS in FY '15 from a legislative response to President Obama's executive action on immigration...The President has said very publicly that he will "oppose any legislative effort to undermine the executive actions that he" has taken on immigration. Therefore, by tethering a bill to fund DHS in FY 2015 to a legislative response to the President's executive action on immigration, the likelihood of a DHS shutdown increases.

The letter continues:

We do not question your desire to have a larger debate about the nation's immigration laws. However, we cannot emphasize enough that DHS's responsibilities are much broader than its responsibility to oversee the Federal immigration agencies and to protect our borders. And funding for the entire agency should not be put in jeopardy by the debate about immigration...It is imperative that we ensure that DHS is ready, willing and able to protect the American people. To that end, we urge you not to risk funding for the operations that protect every American and to pass a clean DHS funding bill.

That is from a letter from three former Secretaries of the Department of Homeland Security who worked for both Democratic and Republican administrations.

Mr. President, what if Congress allows DHS funding to lapse on February 27? That is the end of the current funding resolution. We would then ask critical frontline personnel, such as Border Patrol agents and air marshals, to work without pay. That is insulting to those law enforcement officers who are putting their lives on the line to keep Americans safe every day. That is insulting to the families of those law enforcement officers who depend on a steady paycheck to make ends meet. And that is insulting to the American people, who deserve nothing less than world-class service from government officials.

I must tell you that we have gone through government shutdowns before. It hurts people, no question about it. But guess who gets hurt the most. The taxpayers of this country. It ends up costing us more. We don't save taxpayer dollars. It ends up costing more, jeopardizing the mission, and putting individual families at risk.

Let me cite one example that many of our States and localities know very well. It is the Emergency Management Grant Program. Many local fire, police, and emergency management officials rely on funding from the Homeland Security Grant Program, which provides funds to States, territories, and other local governments to prevent, protect against, and respond to potential terrorist attacks and other hazards. This is a program local governments rely

upon. They do not know whether they are going to get any of these funds after March 1. How do they plan? Local officials as well rely on funding from FEMA's emergency management performance grants. These grants help them to prepare for the unexpected, whether it is a natural disaster or some type of terrorist activity. It allows them to be prepared. We require this training, and it is 50 percent Federal funds and 50 percent local funds. How do they make arrangements to set up this training if they do not know whether the Federal funds are going to be there?

I can speak for the State of Maryland. We have a very tough budget. Our Governor is trying to figure out how he is going to make ends meet. He doesn't have the resources to advance the Federal share. That is no way for us to work in federalism with our local governments when we have a partnership to keep everyone safe.

I can mention many other programs that are in jeopardy of not being funded if we don't pass a clean bill, but let me just in conclusion address the issue of immigration.

Due to many extraneous amendments that were added by the House to the Homeland Security appropriations bill, we have this challenge here in the Senate. The President has made it clear he will veto any bill that expressly limits his authority to exercise prosecutorial discretion on immigration matters.

While we agree that our current immigration system needs comprehensive reform, including border security enhancements, this appropriations bill is not the place for that debate. No matter what side of this debate you are on, most of us agree that the American immigration system is badly broken. Comprehensive immigration reform is long overdue. We need a balanced immigration system that is fair.

My strong preference is that Congress send the President a comprehensive immigration reform bill that he can sign into law. This would provide a more thorough and more permanent solution than Executive action. The Senate passed a bipartisan bill in the last Congress, and I am sure we can do so again. My hope is that the House will take it up soon so we can come together in a bipartisan way, reconcile our differences, and pass comprehensive immigration reform as a separate bill.

Funding for the Department of Homeland Security expires Friday, February 27, which is now less than 3 weeks away. We are not scheduled to be in session one of those weeks because of the district work period. The Senate should act now to pass a clean Homeland Security bill and send it to the President without further delay. That is in the best interest of the American people.

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

The PRESIDING OFFICER (Mr. CRUZ). The Senator from Texas.

PRISON REFORM

MR. CORNYN. Mr. President, as tempted as I am to respond to my good friend from Maryland about the ongoing Democratic filibuster of the Homeland Security funding, I want to spend just a few minutes talking about a topic where there is broad and growing consensus, where both parties have found common ground, and I am talking about the issue of reforming America's prison system.

Pretty much everyone agrees that our prisons are dangerously overcrowded. I think there are roughly 215,000 inmates in Federal custody. And everyone pretty much agrees that by and large people who are in prison are someday going to get out of prison. That, of course, brings about the concern about repeat crimes or recidivism and the fact that it is way too high. I think in many instances it is because we have simply not done enough or maybe have even given up on helping transition people who actually want to transition to a more productive life and providing them with the tools they need to do so.

The hard part about dealing with what I have just described is we have to come up with a solution that addresses these problems without jeopardizing public safety. That, obviously, is a given. It is a challenge, to be sure, but it makes it even more important to find bipartisan consensus and to actually accomplish what we can.

It is in this vein that my colleague from Rhode Island, Senator WHITEHOUSE, and I have joined together to introduce a piece of legislation we call the Corrections Oversight, Recidivism Reduction, and Eliminating Costs for Taxpayers in Our National System Act—or CORRECTIONS Act—to reform our Federal prison system. That is quite an acronym. It is a mouthful to be sure. But the point is, this is real meaningful reform of our prison system at the Federal level.

Before I describe the specifics of the CORRECTIONS Act, I am going to tell a brief story the Presiding Officer is very familiar with of the success in that laboratory of democracy known as the State of Texas.

Not too long ago Texas lawmakers confronted a problem similar to what I have described here at the national level. We had not only growing budgets for prison construction, we had overcrowded prisons and a high rate of criminal recidivism.

At some point the thought occurred to a group of people that just building more prisons wasn't necessarily the answer. It certainly wouldn't fix the problem on the back end that I described, of people who would eventually get out of prison not being prepared to reenter civil society. But we tried a different approach in Texas: scrapping prison construction plans and instead funding a series of recidivism reduction programs aimed at helping low-risk offenders turn their lives around and become productive members of society

and, just as important, not become residents of our prison system once again. These programs are not all that novel. They are well known—things such as drug rehabilitation, educational classes, job training, faith-based initiatives, and something as simple as prison work programs.

In Texas we gave qualified inmates the option of earning credits and completing a portion of their sentence in lower levels of custody—home confinement, halfway houses, community supervision—which is dramatically cheaper than the big-box prisons that are very expensive.

The results speak for themselves. Between 2007 and 2012 our State's overall incarceration rate fell almost 10 percent—9.4 percent—our total crime rate dropped 16 percent, and taxpayers saved more than \$2 billion.

Again, the Presiding Officer knows as well, Texas has a certain reputation when it comes to crime. We are not soft on crime. We are tough on crime. We believe if you do the crime, you should do the time. But I think what we have come up with is a model that can be used at the national level.

Senator WHITEHOUSE this morning, in a press conference we did together, talked about how similar initiatives that took place in Rhode Island produced similar results. But I think one of the keys to this is the recidivism reduction programs because these have proven successful for medium-risk and low-risk inmates and delivered positive results.

This bill would also make a number of other reforms. I guess perhaps the most important, and the first one I will mention, is a risk assessment program, regular risk assessments for inmates, to determine whether they are a low, medium or high risk of recidivism. Indeed, we would not allow high-risk inmates to participate in this program of earning good time credit toward less restrictive custody, but they could, if they were motivated enough to change their status from high risk to medium risk. They could then begin that. So the incentives are clearly there.

These assessments would assign prisoners to appropriate programming to ensure the system is working efficiently and effectively. In other words, if someone has a mental health issue, obviously they would be directed in a particular way. If somebody doesn't have employable job skills, obviously that would call for some training program so they could acquire those kinds of skills. People who have drug and alcohol problems obviously could be directed toward something that could help them learn to free themselves from those challenges.

To me, one of the great things about this particular approach is that it operates on incentives. As an incentive, lower risk offenders who successfully complete their programs would earn up to 25 percent of their remaining sentence in home confinement or a halfway house.

To be clear, these earned time credits would be available only to inmates who have been vetted by the Bureau of Prisons and classified as low-risk offenders. The Nation's most violent offenders would be excluded from earning any credit under this legislation. During these budget-constrained times, it is important to point out that this bill would not involve any additional spending. Instead, it would rely on job programs and partnerships of faith-based groups and nonprofits, and the reinvestment potentially of the savings generated by transitioning lower risk offenders to less restrictive forms of custody.

If it works as it has at the State level, it is going to save money because we will be building fewer prisons. Indeed, in Texas I believe we have actually shuttered three existing prison units because we simply don't need them because of this new approach.

Make no mistake, though, the prisoners eligible for these programs are all people who eventually will get out of prison anyway. What we are trying to do is make sure the very high risk of repeating and recidivism would go down by better preparing them to reenter society. Our goal would be to make it less likely that they would commit new crimes and wind up behind bars again.

So the hope and expectation is this bill would go a long way toward improving public safety, it would save taxpayers money, and it would ease some of the burden on our Federal prisons just like we experienced in Texas.

This bill, at a time when we seem to be very divided on a number of topics, is a consensus piece of legislation. It was voted out of the Judiciary Committee late last year by an overwhelming vote. I think those who expressed some reservations at the time just wanted more opportunity to talk about it and learn more about it, and perhaps they had other ideas they wanted to consider adding to it.

In addition to Senator WHITEHOUSE, there have been a number of colleagues who have been very interested in criminal justice reform, and this is just one place, one starting point, which I think enjoys perhaps the broadest consensus. But I don't think we ought to be afraid of the larger discussion that a number of our colleagues, including the Presiding Officer, have talked about—things such as mandatory minimums, sentencing reforms; the overcriminalization of our regulatory regime, where people who inadvertently violate some regulation find themselves actually accused of a crime.

I think all of these are fair game, but I think the most important thing for us to do is to start—start somewhere—where there is a broad consensus. Let's get done what we can get done, and let's not let the perfect be the enemy of the good.

I think if we can establish, both from the Judiciary Committee and then on the floor of the Senate, that we are capable of moving bipartisan legislation