

in the direction of setting a national mandatory standard. Some of the biggest food companies in this country are moving forward and complying with Vermont's law.

This week is Sunshine Week, so let's hope the Senate rejects efforts to close doors and not let the American public know what is in their food. I hope they will oppose advancing this hastily crafted legislation and work towards a solution that actually lets the consumers in Texas, Iowa, Vermont, or anywhere else know what is in their food.

I see the distinguished majority deputy leader on the floor. I have more to say, but I will save it for later.

The PRESIDING OFFICER. The Senator from Iowa.

FOIA IMPROVEMENT ACT OF 2015

Mr. GRASSLEY. Mr. President, last week, when the Senate passed the Comprehensive Addiction and Recovery Act, I spoke on this floor about the good work that is getting done in the Senate since Republicans took over. Time and again, we have seen both sides of the aisle come together to find practical solutions to real problems facing the American people.

That is the way the Senate is supposed to work, and we need to keep that momentum as we move forward to tackle other critical issues.

As chairman of the Judiciary Committee, I continue to be proud of the role we have played in getting work done in a bipartisan manner.

Today, on the floor of the Senate, we are doing that once again. We are passing another Judiciary Committee bill that carries strong, bipartisan support. We are passing another Judiciary Committee bill that solves real issues and is supported by folks on all ends of the political spectrum.

Don't get me wrong. Finding agreement on both sides of the aisle is no easy task. Even the most well-intentioned efforts can get bogged in the details.

But the fact that we are here today is a testament to good-faith negotiations and a commitment to make government work for the American people. And it is another indication of what this institution can be and what it was meant to be.

The FOIA Improvement Act makes much-needed improvements to the Freedom of Information Act, and its passage marks a critically important step in the right direction toward fulfilling FOIA's promise of open government.

I am proud to be an original co-sponsor of the FOIA Improvement Act, and I want to thank Senator CORNYN and the ranking member of the Judiciary Committee, Senator LEAHY, for their tireless, bipartisan work to advance this bill through the Senate.

I am especially proud that the bill's passage occurs during this year's Sunshine Week, an annual nationwide ini-

tiative highlighting the importance of openness and transparency in government.

Every year, Sunshine Week falls around the birthday of James Madison, the father of our Constitution. This isn't by mistake.

Madison's focus on ensuring that government answers to the people is embodied in the spirit of FOIA, so passing the FOIA Improvement Act this week is a fitting tribute to his commitment to accountable government and the protection of individual liberty. And it is an opportunity for us all to recommit ourselves to these same higher principles.

This year marks the 50th anniversary of FOIA's enactment. For over five decades, FOIA has worked to help folks stay in the know about what their government is up to. The Supreme Court said it best when it declared: "The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed."

To put it simply, FOIA was created to ensure government transparency, and transparency yields accountability.

After all, a government that operates in the dark, without fear of exposure or scrutiny, is one that enables misdeeds by those who govern and fosters distrust among the governed. By peeling back the curtains and allowing the sunlight to shine in, however, FOIA helps fight back against waste, fraud, and abuse of the taxpayer's dollar.

No doubt, FOIA has successfully brought to light numerous stories of government's shortcomings. Through FOIA, folks have learned about public health and safety concerns, mistreatment of our Nation's veterans, and countless other matters that without FOIA would not have come to light.

But despite its successes, a continued culture of government secrecy has served to undermine FOIA's fundamental promise.

For example, we have seen dramatic increases in the number of backlogged FOIA requests. Folks are waiting longer than ever to get a response from agencies. Sometimes, they simply hear nothing back at all. And we have seen a record-setting number of FOIA lawsuits filed to challenge an agency's refusal to disclose information.

More and more, agencies are simply finding ways to avoid their duties under FOIA altogether. They are failing to proactively disclose information, and they are abusing exemptions to withhold information that should be released to the public.

Problems with FOIA have persisted under both Republican and Democrat administrations, but under President Obama, things have only worsened, and his commitment to a "new era of openness" has proven illusory at best.

In January, the Des Moines Register published a scathing editorial, out-

lining the breakdowns in the FOIA system and calling on Congress to tackle the issue head-on.

The editorial described: "In the Obama administration, federal agencies that supposedly work for the people have repeatedly shown themselves to be flat-out unwilling to comply with the most basic requirements of the Freedom of Information Act."

It continued: "At some federal agencies, FOIA requests are simply ignored, despite statutory deadlines for responses. Requesters are often forced to wait months or years for a response, only to be denied access and be told they have just 14 days to file an appeal."

According to the editorial: "Other administrations have engaged in these same practices, but Obama's penchant for secrecy is almost unparalleled in recent history."

These are serious allegations, and no doubt, there are serious problems needing fixed.

So reforms are necessary to address the breakdowns in the FOIA system, to tackle an immense and growing backlog of requests, to modernize the way folks engage in the FOIA process, and to ultimately help change the culture in government toward openness and transparency.

What we have accomplished with this bill—in a bipartisan manner—is a strong step in the right direction.

First, the bill makes much-needed improvements to one of the most over-used FOIA exemptions. It places a 25-year sunset on the government's ability to withhold certain documents that demonstrate how the government reaches decisions. Currently, many of these documents can be withheld from the public forever, but this bill helps bring them into the sunlight, providing an important and historical perspective on how our government works.

Second, the bill increases proactive disclosure of information. It requires agencies to make publicly available any documents that have been requested and released three or more times under FOIA. This will go a long way toward easing the backlog of requests.

Third, the bill gives more independence to the Office of Government Information Services. OGIS, as it is known, acts as the public's FOIA ombudsman and helps Congress better understand where breakdowns in the FOIA system are occurring. OGIS serves as a key resource for the public and Congress, and this bill strengthens OGIS's ability to carry out its vital role.

Fourth, through improved technology, the bill makes it easier for folks to submit FOIA requests to the government. It requires the development of a single, consolidated online portal through which folks can file a request. But let me be clear: it is not a one-size-fits-all approach. Agencies will still be able to rely on request-processing systems they have already built into their operations.

Most importantly, the bill codifies a presumption of openness for agencies to follow when they respond to FOIA requests. Instead of knee-jerk secrecy, the presumption of openness tells agencies to make openness and transparency their default setting.

These are all timely and important reforms to the FOIA process, and they will help ensure a more informed citizenry and a more accountable government.

So I am pleased to see this bill move through the Senate. President Obama has an opportunity to join with Congress in securing some of the most substantive and necessary improvements to FOIA since its enactment.

On July 4 of this year, FOIA turns 50. Let's continue this strong, bipartisan effort to send a bill to the President's desk before then. Let's work together to help fulfill FOIA's promise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the senior Senator from Iowa for his remarks. As he knows, I have worked for years on improving FOIA along with my friend, the senior Senator from Texas. We are celebrating Sunshine Week, a time to pay tribute to one of our Nation's most basic values—the public's right to know. Our very democracy is built on the idea that our government should not operate in secret. James Madison, a staunch defender of open government and whose birthday we celebrate each year during Sunshine Week, wisely noted that for our democracy to succeed, people “must arm themselves with the power knowledge gives.” It is only through transparency and access to information that the American people can arm themselves with the information they need to hold our government accountable.

We are also celebrating the 50th anniversary of the enactment of the Freedom of Information Act, FOIA, our Nation's premier transparency law. I was actually at the National Archives yesterday, and I looked at the actual bill signed into law in 1966 by then-President Johnson, Vice President Hubert Humphrey, and Speaker John McCormack, all who were here long before I was. I was thinking that, 50 years ago, the Freedom of Information Act became the foundation on which all our sunshine and transparency policies rest, so I can think of no better way to celebrate both Sunshine Week and the 50th Anniversary of FOIA than by passing the FOIA Improvement Act.

This bipartisan bill, which I coauthored with Senator CORNYN, codifies the principle that President Obama laid out in his 2009 executive order. He asked all Federal agencies to adopt a “presumption of openness” when considering the release of government information under FOIA. That follows the spirit of FOIA put into place by President Clinton, repealed by President Bush, and reinstated as one of

President Obama's first acts in office, but I think all of us felt we should put the force of law behind the presumption of openness so that the next President, whomever he or she might be, cannot change that without going back to Congress. Congress must establish a transparency standard that will remain for future administrations to follow—and that is what our bill does. We should not leave it to the next President to decide how open the government should be. We have to hold all Presidents and their administrations accountable to the highest standard. I do not think my friend, the senior Senator from Texas, will object if I mention that in our discussions we have both said words to the effect that we need FOIA, whether it is a Democratic or Republican administration. I do not care who controls the administration. When they do things they think are great, they will release a sheath of press releases about them. However, it is FOIA that lets us know when they are not doing things so well. The government works better if every administration is held to the same standard.

The FOIA Improvement Act also provides the Office of Government Information Services, OGIS, with additional independence and authority to carry out its work. The Office of Government and Information Services, created by the Leahy-Cornyn OPEN Government Act in 2007, serves as the FOIA ombudsman to the public and helps mediate disputes between FOIA requesters and agencies. Our bill will provide OGIS with new tools to help carry out its mission and ensure that OGIS can communicate freely with Congress so we can better evaluate and improve FOIA going forward. The FOIA Improvement Act will also make FOIA easier to use by establishing an online portal through which the American people can submit FOIA requests, and it will ensure more information is available to the public by requiring that frequently requested records be made available online.

Last Congress, the FOIA Improvement Act, which Senator CORNYN and I wrote, passed the Senate unanimously. The House failed to take it up. So as the new Congress came in, to show we are bipartisan with a change from Democratic leadership to Republican leadership, Senator CORNYN and I moved quickly to reintroduce our legislation in the new Congress. The Senate Judiciary Committee unanimously approved our bill in February 2015. Sometimes it is hard for the Senate Judiciary Committee to unanimously agree that the sun rises in the east, but on this issue, we came together. Our bill has been awaiting Senate action for over a year. I urge its swift passage today. I want the House to take it up. I want the President to sign it into law. I am proud to stand here with my good friend, the senior Senator from Texas.

The PRESIDING OFFICER (Ms. AYOTTE). The Senator from Texas.

Mr. CORNYN. Madam President, I want to thank my colleague, the Senator from Vermont, for being together with me on what some people would regard as the Senate's odd couple—people with very different views on a lot of different things but who try to work together on legislation such as this, freedom of information reform legislation, but I can think of others that we worked on as well, such as patent reform and criminal justice reform.

I think most people are a little bit surprised when they see us fighting like cats and dogs on various topics, which we will—and those fights are important when they are based on principle—I think they are a little bit surprised when they see us then come together and try to find common cause, common ground on things such as this, but this is the sort of thing that makes the Senate work. This is the sort of thing that the American people deserve, when Republicans and Democrats, people all along the ideological spectrum, work together to find common ground.

I couldn't agree with the Senator more about, really, a statement of human nature. It is only human nature to try to hide your failures and to trumpet your successes. It is nothing more, nothing less than that. But what the Freedom of Information Act is premised on is the public's right to know what their government is doing on their behalf.

I know some people might think, well, for somebody who is a conservative, this is a little bit of an odd position. Actually, I think it is a natural fit. If you are a conservative like me, you think that the government doesn't have the answer to all the challenges that face our country, that sometimes, as Justice Brandeis said, sunlight is the best disinfectant.

Indeed, I know something else about human nature: that people act differently when they know others are watching than they do when they think they are in private and no one can see what they are doing. It is just human nature.

So I have worked together with Mr. LEAHY, the Senator from Vermont, repeatedly to try to advance reforms of our freedom of information laws, and I am glad to say that today we will have another milestone in that very productive, bipartisan relationship on such an important topic. This is Sunshine Week, a week created to highlight the need for more transparent and open government.

Let me mention a couple of things this bill does. It will, of course, as we said, strengthen the existing Freedom of Information Act by creating a presumption of openness. It shouldn't be incumbent on an American citizen asking for information from their own government—information generated and maintained at taxpayer expense—they shouldn't have to come in and prove something to be able to get access to something that is theirs in the

first place. Now, there may be good reason—classified information necessary to fight our Nation's adversaries, maybe personally private information that is really not the business of government, but if it is, in fact, government information bought for and maintained by the taxpayer, then there ought to be a presumption of openness. This legislation will, in other words, build on what our Founding Fathers recognized hundreds of years ago: that a truly democratic system depends on an informed citizenry to hold their leaders accountable. And in a form of government that depends for its very legitimacy on the consent of the governed, the simple point is, if the public doesn't know what government is doing, how can they consent? So this is also about adding additional legitimacy to what government is doing on behalf of the American people.

I just want to again thank the chairman of the Senate Judiciary Committee. We had a pretty productive couple of weeks with passage of the Comprehensive Addiction and Recovery Act, which the Presiding Officer was very involved in, and now passage of this legislation by, I hope, unanimous consent.

PRESUMPTION OF OPENNESS

Mr. LEAHY. Madam President, Senator CORNYN and I have worked together to improve and protect the Freedom of Information Act, FOIA—our Nation's premiere transparency law—for many years and look forward to continuing this partnership.

The bill we passed today codifies the principle that President Obama laid out in his 2009 Executive order in which he asked all Federal agencies to adopt a "presumption of openness" when considering the release of government information under FOIA. This policy embodies the very spirit of FOIA. By putting the force of law behind the presumption of openness, Congress can establish a transparency standard that will remain for generations to come. Importantly, codifying the presumption of openness will help reduce the perfunctory withholding of documents through the overuse of FOIA's exemptions. It requires agencies to consider whether the release of particular documents will cause any foreseeable harm to an interest the applicable exemption is meant to protect. If it will not, the documents should be released.

Mr. CORNYN. I thank Senator LEAHY for his remarks and for working together on this important bill. This bill is a good example of the bipartisan work the Senate can accomplish when we work together toward a common goal. I agree with Senator LEAHY that the crux of our bill is to promote disclosure of government information and not to bolster new arguments in favor of withholding documents under FOIA's statutory exemptions.

I want to clarify a key aspect of this legislation. The FOIA Improvement Act makes an important change to exemption (b)(5). Exemption (b)(5) per-

mits agencies to withhold documents covered by litigation privileges, such as the attorney-client privilege, attorney work product, and the deliberative process privilege, from disclosure. Our bill amends exemption (b)(5) to impose a 25-year sunset for documents withheld under the deliberative process privilege. This should not be read to raise an inference that the deliberative process privilege is somehow heightened or strengthened as a basis for withholding before the 25-year sunset. This provision of the bill is simply meant to effectuate the release of documents withheld under the deliberative process privilege after 25 years when passage of time undoubtedly dulls the rationale for withholding information under this exemption.

Mr. LEAHY. I thank Senator CORNYN for his comments, and I agree with his characterization of the intent behind the 25-year sunset and the deliberative process privilege. This new sunset should not form the basis for agencies to argue that the deliberative process privilege somehow has heightened protection before the 25-year sunset takes effect. Similarly, the deliberative process privilege sunset is not intended to create an inference that the other privileges—including attorney-client and attorney work product, just to name a few—are somehow heightened in strength or scope because they lack a statutory sunset or that we believe they should not be released after 25 years. Courts should not read the absence of a sunset for these other privileges as Congress's intent to strengthen or expand them in any way.

Mr. CORNYN. I thank Senator LEAHY for that clarification and agree with his remarks. If there is any doubt as to how to interpret the provisions of this bill, they should be interpreted to promote, not detract, from the central purpose of the bill which is to promote the disclosure of government information to the American people.

Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 17, S. 337.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 337) to improve the Freedom of Information Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. CORNYN. Madam President, I ask unanimous consent that the Cornyn substitute amendment be agreed to; that the bill, as amended, be read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

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

The amendment (No. 3452) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 337), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. CORNYN. I thank the Presiding Officer.

Again, let me express my gratitude to my partner in this longstanding effort. Since I have been in the Senate, Senator LEAHY has worked tirelessly, together with me and my office and really the whole Senate, to try to advance the public's right to know by reforming and expanding our freedom of information laws.

Thank you.

Mr. LEAHY. Madam President, I thank the distinguished senior Senator from Texas. He has worked tirelessly on this, and I think we both agree that the best government is one where you know what they are doing.

NATIONAL SEA GRANT COLLEGE PROGRAM AMENDMENTS ACT OF 2015—Continued

Mr. LEAHY. Madam President, on another matter—and I thank the distinguished Senator from Florida for not seeking recognition immediately. I ask unanimous consent that as soon as I finish, I can yield to the Senator from Florida.

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

REMEMBERING BERTA CACERES

Mr. LEAHY. Madam President, the woman in the photograph next to me is Berta Caceres, an indigenous Honduran environmental activist who was murdered in her home on March 3.

Ms. Caceres was internationally admired, and in the 12 days since her death and since my remarks on the morning after and on the day of her funeral on March 5, there has been an outpouring of grief, outrage, remembrances, denunciations, and declarations from people in Honduras and around the world.

Among the appalling facts that few people may have been aware of before this atrocity is that more than 100 environmental activists have reportedly been killed in Honduras just since 2010. It is an astonishing number that previously received little attention. One might ask, therefore, why Ms. Caceres' death has caused such a visceral, explosive reaction.

Berta Caceres, the founder and general coordinator of the Civic Council of Popular and Indigenous Organizations of Honduras, COPINH, was an extraordinary leader whose courage and commitment, in the face of constant threats against her life, inspired countless people. For that she was awarded the prestigious 2015 Goldman Environmental Prize.

Her death is a huge loss for her family, her community, and for environmental justice in Honduras. As her family and organization have said, it illustrates "the grave danger that human rights defenders face, especially those who defend the rights of indigenous people and the environment against the exploitation of [their] territories."

This is by no means unique to Honduras. It is a global reality. Indigenous