

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

people are the frequent targets of threats, persecution, and criminalization by state and non-state actors in scores of countries.

Why is this? Why are the world's most vulnerable people who traditionally live harmoniously with the natural environment so often the victims of such abuse and violence?

There are multiple reasons, including racism and other forms of prejudice, but I put greed at the top of the list. It is greed that drives governments and private companies, as well as criminal organizations, to recklessly pillage natural resources above and below the surface of land inhabited by indigenous people, whether it is timber, oil, coal, gold, diamonds, or other valuable minerals. Acquiring and exploiting these resources requires either the acquiescence or the forcible removal of the people who live there.

In Berta Caceres' case, the threats and violence against her and other members of her organization were well documented and widely known, but calls by the Inter-American Commission on Human Rights for protective measures were largely ignored.

This was particularly so because the Honduran Government and the company that was constructing the hydroelectric project that Ms. Caceres and COPINH had long opposed were complicit in condoning and encouraging the lawlessness that Ms. Caceres and her community faced every day.

The perpetrators of this horrific crime have not been identified. Since March 3, there has been a great deal of legitimate concern expressed about the treatment of Gustavo Castro, the Mexican citizen who was wounded and is an eyewitness, and who has ample reason to fear for his life in a country where witnesses to crime are often stalked and killed. In the meantime, for reasons as yet unexplained, the Honduran Government suspended, for 15 days, Castro's lawyer's license to practice.

That concern extends to the initial actions of the Honduran police who seemed predisposed to pin the attack on associates of Ms. Caceres. This surprised no one who is familiar with Honduras's ignominious police force.

The fact is we do not yet know who is responsible, but a professional, comprehensive investigation is essential, and the Honduran Government has neither the competence nor the reputation for integrity to conduct it themselves.

There have been countless demands for such an investigation. Like her family, I have urged that the investigation be independent, including the participation of international experts. With rare exception, criminal investigations in Honduras are incompetently performed and incomplete.

They almost never result in anyone being punished for homicide. As Ms. Caceres's family has requested, the Inter-American Commission is well suited to provide that independence and expertise, but the Honduran authorities have not sought that assist-

ance just as they refused the family's request for an independent expert to observe the autopsy.

The family has also asked that independent forensic experts be used to analyze the ballistics and other evidence. The internationally respected Guatemalan Forensic Anthropology Foundation, which has received funding from the U.S. Agency for International Development for many years, would be an obvious option, but the Honduran Government has so far rejected this request, too.

Like Ms. Caceres's family, I have also urged that the concession granted to the company for the Agua Zarca hydroelectric project be cancelled. It has caused far too much controversy, divisiveness, and suffering within the Lenca community and the members of Ms. Caceres's family and organization. It clearly cannot coexist with the indigenous people of Rio Blanco who see it as a "permanent danger" to their safety and way of life. It is no wonder that two of the original funders of the project have abandoned it. The Dutch, Finnish, and German funders should follow their example.

This whole episode exemplifies the irresponsibility of undertaking such projects without the free, prior, and informed consent of indigenous inhabitants who are affected by them. Instead, a common practice of extractive industries, energy companies, and governments has been to divide local communities by buying off one faction, calling it "consultation," and insisting that it justifies ignoring the opposing views of those who refuse to be bought.

When a majority of local inhabitants continue to protest against the project as a violation of their longstanding territorial rights, the company and its government benefactors often respond with threats and provocations, and community leaders are vilified, arrested, and even killed. Then representatives of the company and government officials profess to be shocked and saddened and determined to find the perpetrators, and years later, the crime remains unsolved and is all but forgotten.

Last year, President Hernandez, Minister of Security Corrales, and other top Honduran officials made multiple trips to Washington to lobby for Honduras' share of a U.S. contribution to the Plan of the Alliance for Prosperity of the Northern Triangle of Central America. Among other things, they voiced their commitment to human rights and their respect for civil society, although not surprisingly they had neglected to consult with representatives of Honduran civil society about the contents of the plan.

The fiscal year 2016 Omnibus Appropriations Act includes \$750 million to support the plan, of which a significant portion is slated for Honduras. I supported those funds. In fact I argued for an amount exceeding the levels approved by the House and Senate appropriations committees because I recog-

nize the immense challenges that widespread poverty, corruption, violence, and impunity pose for those countries.

Some of these deeply rooted problems are the result of centuries of self-inflicted inequality and brutality perpetrated by an elite class against masses of impoverished people. But the United States also had a role in supporting and profiting from that corruption and injustice, just as today the market for illegal drugs in our country fuels the social disintegration and violence that is causing the people of Central America to flee north.

I also had a central role in delineating the conditions attached to U.S. funding for the Plan of the Alliance for Prosperity, and there is strong, bipartisan support in Congress for those conditions. They are fully consistent with what the Northern Triangle leaders pledged to do and what the State Department and the U.S. Agency for International Development agree is necessary if the plan is to succeed.

I mention this because the assassination of Berta Caceres brings U.S. support for the plan sharply into focus. That support is far from a guarantee.

It is why a credible, thorough investigation is so important.

It is why those responsible for her death and the killers of other Honduran social activists and journalists must be brought to justice.

It is why Agua Zarca and other such projects that do not have the support of the local population should be abandoned.

And it is why the Honduran Government must finally take seriously its responsibility to protect the rights of journalists, human rights defenders, other social activists, COPINH, and civil society organizations that peacefully advocate for equitable economic development and access to justice.

Only then should we have confidence that the Honduran Government is a partner the United States can work with in addressing the needs and protecting the rights of all the people of Honduras and particularly those who have borne the brunt of official neglect and malfeasance for so many years.

Madam President, I yield the floor to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON. Madam President, I would just add to Senator LEAHY's comments that a year ago, unfortunately, Honduras was known as the murder capital of the world, with the highest number of per capita murders per 100,000 people. That has improved somewhat. But that little, poor nation, under its new President, is struggling to overcome the drug lords, the crime bosses who prey on a country that is ravaged by poverty. It is such a tempting thing when all kinds of dollars are put in front of their noses in order to tempt them to get involved in these crime syndicates that have a distribution network of whatever it is—drugs,

trafficking, human trafficking, other criminal elements—a distribution that goes from south to north on up into the United States.

So I join Senator LEAHY in his expression of grief and condolences for the lady who was murdered.

DRILLING OFF THE ATLANTIC SEABOARD

Madam President, this Senator has conferred with the administration on its proposal for the drilling off the Atlantic seaboard. At least the administration listened to this Senator and kept the Atlantic area off of my State of Florida from proposed drilling leases for this next 5-year lease period. They did that last year. We are grateful they did that for the reasons for which we have fought for years to keep drilling off of the coast of Florida, not only because of what we immediately anticipate—tourism, the environment—but also our military training and testing areas.

So this Senator made the argument to the Obama administration that if you are coming out there with leases off the Atlantic seaboard, don't put it off of Florida. We have military and intelligence rockets coming out of Cape Canaveral Air Force Station. We have the rockets coming out of the Kennedy Space Center for NASA. Obviously, we can't have oil rigs out there when we are dropping the first stages of these rockets. And the administration complied.

But the administration then went on to offer for lease tracks of the Atlantic Ocean from the Georgia line all the way through the Carolinas, including up to the northern end of Virginia—very interesting. Just this morning the administration has walked back the offering of those leases off the eastern seaboard of the United States.

Now, it is certainly good news not only for the fact that they never did it in the first place off of Florida, but it is good news for the Atlantic coast residents who then fought so hard to keep the drilling off their coast. They first released this draft plan in January of 2015, a year ago, and the Department of the Interior had suggested opening up these new areas of the Mid-Atlantic. As we would expect, communities up and down the Atlantic seaboard voiced their objection, and they did it in a bipartisan way. From Atlantic City to Myrtle Beach, cities and towns along the coast passed resolutions to make clear their opposition to the drilling off their shores. Obviously, they weren't the only ones because—surprise, surprise—just this week the Pentagon weighed in and voiced its concerns, having been just corroborated in the Senate Armed Services Committee when I asked the question of the Secretary of the Navy about the concerns that drilling in the Mid-Atlantic region would impact the military's ability to maintain offshore readiness because of the testing and training areas.

The Pentagon had voiced this concern two administrations ago with re-

gard to drilling in the gulf off of Florida, which is the largest testing and training area for our U.S. military in the world. So today, there is the Interior Department's decision to remove the Atlantic from the 5-year plan. Well, what about the next 5-year plan? And what about the rigs already operating in other areas off of our coast, such as off of Alabama, Mississippi, Louisiana, and Texas in the gulf.

We have carried on this fight now for four decades, and today we still have a renewed push to allow drilling off of these sensitive areas for the reasons I have mentioned. Some of our own colleagues are offering an amendment to a little energy bill that is about energy efficiency. It is a nongermane amendment. But what they want to do is to sweeten the pot with all of the revenues for offshore drilling that would normally go to the Federal Government instead to go to the States—another incentive to do that drilling by the oil industry. But what we saw was that the coastal communities—in this case the Mid-Atlantic seaboard—rise up and voice objections, regardless of their partisan affiliation.

We have seen again today that the Pentagon raised its objection, and, unfortunately, we have found a Federal safety regulator asleep at the switch. It has been nearly 6 years since we faced one of the greatest natural disasters that our country has ever seen, and that was the gulf oil spill. Yet, according to the GAO report released just last week, we are no better off now than we were before that tragic accident. As a reaction to that accident, the Deepwater Horizon oil rig explosion that, I remind my colleagues, killed 11 men and sent up to almost 5 million barrels—not gallons, barrels—of oil gushing into the gulf, there were a number of questions that were asked: How could this happen? Where were the safety inspectors?

Well, it soon became clear that the agency in charge—a subdivision of the Department of the Interior, the Minerals Management Service—was so cozy with the oil and gas industry that the Interior Department's own inspector general considered it a conflict of interest. And in response to the IG's findings, the Interior Department decided to reorganize, and it split that agency—the Minerals Management Service—into two, one in charge of leasing and the other in charge of safety.

Last Friday, the GAO—what is the GAO? It is the General Accounting Office. It is the independent, nonpartisan research arm of Congress. The GAO released a report that found that the ongoing restructuring—that splitting into—actually “reverses actions taken to address the post-Deepwater Horizon concerns, weakening its oversight.”

The report goes on to say that the Interior Department's newly created agency in charge of safety—one of the two that were split—the Bureau of Safety and Environmental Enforce-

ment, suffers—this is the report's words—“a lack of coherent leadership” and “inconsistent guidance.”

So here we are 6 years after the gulf oil spill, and we are weakening oversight—the very words of the report—6 years later. Obviously, this is inexcusable. That is why a number of us have asked the Energy and Natural Resources Committee to hold a hearing on this troubling report to get to the bottom of it.

Now, at some point, the objections of the vast majority of people who live along the coast and the economies that depend on those environments and those white sandy beaches and crystal blue water and the military bases that are utilizing the testing and training areas over those waters have to be heard. Their concerns have to be addressed. We can't continue to keep having a fight every time this comes up every 5 years. There is too much at stake. Yet the fight goes on. Now there is the new evidence mounted just last Friday and—lo and behold—the results of that new evidence this morning—pulling the plug on the leasing off the eastern coast of the United States.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Madam President, I come to the floor today in support of the biotechnology labeling solutions bill.

This legislation will avoid a patchwork of State labeling regulations and in so doing will save families thousands of dollars a year to protect American jobs and provide consumers with accurate, transparent information about their food.

First of all, I wish to thank Chairman PAT ROBERTS for his leadership on the issue of bioengineered food and for bringing forward his chairman's mark. Specifically, the biotechnology labeling solutions bill does three things. It immediately ends the problem of having a patchwork of inconsistent State GMO labeling programs. Second, it creates a voluntary bioengineered labeling program within 1 year. So USDA would set up a voluntary program within a year, and then within 3 years, it requires the Department of Agriculture to create a mandatory bioengineering labeling program if there is insufficient information available on products' bioengineered content.

So it makes sure that we don't have a patchwork of 50 State labeling laws. It sets up a voluntary program within 1 year. Then, if the information isn't out there sufficient for consumers, it makes sure that USDA follows up and ensures that the information is provided and that it is provided in a variety of ways that work for consumers but also work for our farmers and ranchers and for the food industry so that we don't raise costs for our consumers.

This bill will ensure that the Vermont GE labeling law, which goes into effect on July 1 of this year, does

not end up costing American families billions of dollars when they fill up their grocery carts. If we don't act soon, food companies will have one of three options for complying with the Vermont law. No. 1, they can order new packaging for products going to each individual State with a labeling law; No. 2, they could reformulate products so that no labeling is required; or No. 3, they can stop selling to States with mandatory labeling laws. Of course, all of these options or any of these options would not only increase the cost of food to consumers but could result in job losses in our ag communities.

For millions of Americans, the GMO or bioengineered food labeling issue will impact the affordability of their food. Testimony provided by the USDA, FDA, and the EPA to the Senate Agriculture Committee last fall made clear that foods produced with the benefit of biotechnology are safe. Nobody is disputing that the food is safe. The real risk is if we don't address the Vermont GMO law, real families will have a tougher time making ends meet, they will face higher costs, and they are going to have more challenges getting the foods they want.

In fact, if food companies have to apply Vermont's standards to all products nationwide, it will result in an estimated increase of over \$1,050 per year per household. For families having a tough time paying bills, this is in essence a regressive tax. It will hurt people of low incomes more than it will hurt people with substantial means.

From a jobs perspective, the story is also concerning. It has been calculated that if Vermont's law is applied nationwide, it will cost over \$80 billion a year to switch products over to non-GMO supplies. Those billions of dollars a year in additional costs will hurt our ag and food industry that creates more than 17 million jobs nationwide. In my home State of North Dakota alone, 94,000 jobs or 38 percent of our State's economy rely on the ag and food industry.

This is a bad time to make it more expensive to do business in the ag sector. Recently, an economist at the Federal Reserve Bank of Kansas City testified that net farm income in 2015 is more than 50 percent less than it was in 2013, and it is expected to go down again in 2016. So this is an issue that affects our family farms directly across the country.

If Vermont's law goes forward, many farmers who rely on biotech crops to increase productivity will be deprived of that critical tool. This Senator knows how hard our farmers work and how much they put on the line every year when they have to take out an operating loan for crops that may or may not materialize. We shouldn't ask them to feed the Nation with one hand tied behind their backs by taking away biotechnology.

More than just overcoming the problems associated with having a patchwork of State regulations, I think it is

important for Americans to know this legislation ensures that consumers have consistent, accurate information about the bioengineered content of their food. The biotechnology labeling solutions bill creates greater transparency for consumers by putting in place, within 1 year, a new voluntary bioengineered food labeling program to ensure products labeled as having been produced with biotechnology meet a uniform national standard.

As I mentioned, food produced with the aid of bioengineering are, according to the FDA, EPA, and USDA, safe. However, many consumers want to know if the food they are buying is produced using biotechnology, which is why this legislation's national voluntary bioengineering standard makes so much sense. The voluntary program in this legislation will ensure that a consumer who buys a food product with a bioengineering smart label in North Dakota is purchasing a product that is held at the same disclosure standards as food sold in New York, California, or North Carolina.

This voluntary program will let the marketplace respond to consumer demand for information. You can look at the USDA organic food program, a voluntary label many consumers look for in our grocery stores. Yet this bill goes further to create a mandatory bioengineered food disclosure program if the Secretary of Agriculture finds that there is insufficient consumer access to information about bioengineered foods.

We need a solution, and this bill helps keep our Nation's food affordable, it supports jobs, and it provides consumers consistent information about bioengineered foods. I urge my colleagues to work together to support this bipartisan measure.

NATIONAL AGRICULTURE DAY

Madam President, I would like to take just a minute to acknowledge, recognize, and thank our Nation's farmers on National Agriculture Day.

Today on National Agriculture Day, I want to celebrate and thank America's ag producers. That includes those in my home State of North Dakota who provide us with the lowest cost, highest quality food supply not just in the world but in the history of the world. America's grocery stores abound with fresh fruits, vegetables, and meats. Our dinner tables are able to offer our families a greater variety of nutritious, flavorful foods than ever before. They are a testament to the hard work, commitment, and innovation of our Nation's agricultural producers. Agriculture and ag-related industries is also an important part of the American economy, contributing \$835 billion to our Gross Domestic Product in 2014.

Further, our America's food and ag sector provides jobs for 16 million people and contributes billions of dollars to the national economy. Agriculture also has a positive balance of trade and produces a financial surplus for our country.

I especially want to thank the men and women of North Dakota who farm

and ranch. They made agriculture North Dakota's largest industry with nearly \$11 billion in sales last year. I am proud to say North Dakota leads the Nation in the production of 9 important commodities and is first or second in 15. This includes half of all the durum and spring wheat, more than 90 percent of the Nation's flax, and more than 85 percent of the Nation's canola.

America's farmers and ranchers work through drought and floods, crop disease, hail, and other challenges year in and year out. Yet they still get up every morning, put on their boots, and go out in the field and pastures for our country. Our farmers and ranchers built America, and today they sustain it. On National Agriculture Day, we acknowledge the enormous debt of gratitude we owe them.

Thank you, Madam President, and with that I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. TILLIS. Thank you, Madam President.

I thank the distinguished Senator from North Dakota for his comments, and I would like to be associated with all of them, in fact, particularly recognizing our farmers in North Carolina. The Senator from North Dakota and I have had discussions about the friendly competition among the agriculture States and the hard work they are doing to feed America and the world, but today I rise to express my support for Chairman ROBERTS' bill for the biotechnology labeling legislation.

I am supporting Chairman ROBERTS' effort because it addresses a real problem. The problem is that a small portion of the food industry is trying to impose their policy preferences onto the entire food supply chain in the United States. We are where we are because the Vermont law is not written in a way that merely impacts the citizens of Vermont. It is astonishing to hear the misleading claim that the Vermont law is about the right to know. If the Vermont law is about the right to know, why is it that the law exempts so many products?

Here are some examples of the absurdity of the Vermont law. Vegetable cheese lasagna would be labeled, but meat lasagna wouldn't. Soy milk would need to be labeled, but cow's milk would not. Frozen pizza would need to be labeled, but delivered pizza would not. Chocolate syrup would need to be labeled, but maple syrup would not. Vegetable soup would need to be labeled, but vegetable beef soup would not. Food at a restaurant would be totally exempt, but not food at a grocery store. Vegetarian chili would need to be labeled, but meat chili would not. Veggie burgers made with soy would need to be labeled, but cheeseburgers would not.

By my way of thinking, it is a patchwork that doesn't make sense if you are trying to come up with a consistent way to communicate to consumers what is in the food they are eating. The

Vermont law is a classic case of the government picking winners and losers and putting the burden of those decisions on the backs of hard-working Americans.

I had this slide up to begin with, but this is something we have to continue to be focused on. If you were to take the Vermont law and have a couple dozen States create their own variance and have all the complexity added, it is estimated the added cost of compliance would result in a cost of some 1,000 additional dollars per household. In this economy, how many families can afford another \$1,000 a year for food?

I am surprised that number is not higher. It most likely will be and here is why: Manufacturers are subject to a \$1,000 fine if one of their products is mistakenly or inadvertently found for sale in Vermont on a store shelf. The food industry will have over 100,000 items in the State of Vermont—a State that has roughly 625,000 residents. If only 5 percent to 10 percent of those products are even unintentionally mislabeled, that means fines of as much as \$10 million per day, in addition to the millions per year companies will have to pay to actually change their supply chains to comply with the law to serve a population of 625,000.

We are often told in this Chamber we need to be more cognizant of the science. Those who are irresponsibly scaring the American people to defend the Vermont mandatory labeling law need to understand the science is against them. Late last year, the FDA rejected a petition calling for mandatory labeling of foods from genetically engineered products stating that “the simple fact that a plant is produced by one method over another does not necessarily mean that there will be a difference in the safety or other characteristics of the resulting foods. . . . To date, we have completed over 155 consultations for GE plant varieties. The numbers of consultations completed, coupled with the rigor of the evaluations, demonstrate that foods from GE plants can be as safe as comparable foods produced using conventional plant breeding.”

During a Senate Appropriations subcommittee hearing last week, USDA Secretary Vilsack responded to questions regarding GMOs by emphasizing that the mandatory labeling efforts are not about food safety, nutritional benefits, or sound science. Two weeks ago, the Secretary was quoted at a conference referring to genetically modified products saying, “I am here to unequivocally say they are safe to consumers.”

Chairman ROBERTS’ language does exactly what Congress should be doing with regard to marketing standards; that is, setting rules of engagement that are consistent, balanced, and fair for all players in the industry by providing consistent information to consumers about the content of their food. With the chairman’s bill, the marketplace has an opportunity to find the

best approaches to getting consumers the information they want without imposing new regulations that add costs to our food supply, complexity, and no more real information or clarity.

If we as a nation are going to have a discussion on the necessity of labeling biotechnology products, fine, but the Vermont law is not the catalyst for that debate, and that conversation should be with the American people, not one State with roughly 625,000 people dictating to the market of more than 317 million people.

I encourage my colleagues to recognize that we should do everything we can to inform consumers about the content of their food. There is a right way to do it and there is a wrong way to do it. There is a more costly way to do it as proposed by the Vermont law or there is a more straightforward, effective, and consistent way, and that is what Chairman ROBERTS is trying to accomplish with this bill. I encourage everyone to support it.

Thank you, Madam President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MANCHIN. 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.

FILLING THE SUPREME COURT VACANCY

Mr. MANCHIN. Mr. President, I rise today to discuss Presidential nominations. I think most people in this body know I am probably one of the least partisan people—looking at the issues, working across the aisle, always reaching out to my friends and colleagues on the other side of the aisle. I don’t look at the barrier a lot of people look at here.

I know we are able to debate and we are able to advise and consent on nominations because we just did it. I have a tremendous problem in my State, and I think in all of our States—Colorado and all across the country—with opioid addiction and drug abuse. With that being said, I truly believe that for us to fight this war, we have to have a cultural change within the FDA. The President of the United States nominated Dr. Robert Califf, a very good man, but a person who came from within the industry and who I did not think would bring a cultural change. Still, he was the recommendation of the President.

The majority leader from Kentucky basically brought that to the floor for a vote. I thought it was the wrong person, even though this was a nomination from a President of my party, and me being a Democrat. So I think it is a misnomer for us to believe we are going to hold hard to party lines.

I have said that I didn’t think Dr. Califf would bring the cultural change. I hope he proves me wrong. I am willing to work with him on that, and I

will fight to make sure we rid this country of the scourge of legal prescription drug abuse that is ruining families and destroying lives. I think we have proved the President can bring people up, which is his responsibility, and we can look at that person and agree. In this case, I had only four votes on my side. The majority of all the Republicans but one—yes, all the Republicans but one—voted for him. I still think it was wrong, but we are going to make the best of it that we can.

The bottom line is we did our job. We truly did our job, and I can live with that decision. I look at the Constitution, and it is very clear. It says the President “shall.” It doesn’t say “may.” Being in the legislature—and the Presiding Officer has been in the legislature as well—the words “shall” and “may” are worlds apart. It says “shall,” and we know he will nominate.

Why are we not willing to go through this process? I am as likely to find someone he might recommend who I will not vote for as maybe the Chair and maybe our other colleagues. I saw what happened when I first got here. We got condemned for not voting at all. We weren’t getting any votes because there was protection going on. Basically, for whoever is up in the cycle, tough votes make it very difficult for people to get reelected. We proved that to be wrong because basically we saw a big switch in the Senate from the majority to the minority and the minority to the majority.

I have said very strongly that no vote is worse than a tough vote. A no vote in this body is worse than a tough vote. If you are saying that you would rather not vote at all because it might cause a problem back home, I think we have more problems if we don’t do our job. That is why I can’t figure this out.

If the President brings a person up, there is going to be 2 or 3 months, and if we can’t find someone we can agree on—60 of us—that means it will take at least 14 Republicans to find someone they can agree on and they think is good for the country and move forward. If not, then it will run right into the next administration, whoever that may be. But basically we would be doing our job.

I just have a hard time on this one. I am going to evaluate that nominee based on their legal qualifications and judicial philosophy. I am going to look and basically see what type of jurist they have been, what types of decisions they have made, what types of social media they have been on, and what they have talked about. I will look at all of that, which is what we should be doing, to find out as much about that person as I can and to see how they will govern and rule in the future. Hopefully we will find someone who will look at the issues, look at the rule of law, and look at who we are as a country. I think we all can do that. I know very well the Chair can. I know very well every one of our colleagues

on both sides of the aisle is able to do that.

I don't believe the President can count on all Democrats, just because he is a Democrat, falling in line. If that were the case, we wouldn't have had Senator MARKEY of Massachusetts, DICK BLUMENTHAL, and I voting against Robert Califf, who was the President's nominee.

So we are going to have to find that right person. But if we never get the chance to evaluate the person, I don't know how we can do that. Again, it truly gets down to the fact that this is the job we are supposed to do. We talk about orderly business. We are getting things done. I have heard people say: Oh, yes, we are getting things done now that the Republicans are in the majority. The Chair has been here long enough to understand that the majority might set the agenda, but it is the minority that drives the train as to whether we get on something or not. So we have to work together.

We have proved the old game plan didn't work. The new game plan is fine. Let's have an open amendment process, let's go through it and debate it, and then let it go up or down on its merits. That is what we are asking for on this. Let it go to committee. When the nomination comes, let it go to the committee and look at the nomination. I mean dissect it in every way, shape, or form, whoever that person may be—he or she. I am willing to live with whatever the committee comes out with, and I am going to do my own research. When it comes to the floor, there is no guarantee that I am going to vote for that person—absolutely not. And I have already proved that. All of us have proved that we haven't just blindly followed party lines, nor should we. We aren't expected to. Our constituents don't expect us to do that. They do not want us to do it, that is for sure.

Again, the Constitution states that the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint. . . .” He can appoint only if we have the advice and consent of the Senate. There is no other way this President or any other President can make that decision. We make the final decision.

Again, we are to the point now where the rhetoric is back and forth and it gets a little harsher and everybody gets ingrained, entrenched: By golly, we are not going to take anybody up; we don't care who that person will be. And I just hate to see that. We are all friends. We all know each other, and we all truly, I believe, are here for the right reasons and want to do the best job we can. But we are still expected to do our job.

At the end of the day, did you do your job? Yes, we looked; the President gave us somebody; we didn't think that person was qualified; we didn't think they were centrist enough; they didn't have the background or a record that we could extract what we felt their performance would be in the future; and

for those reasons, we voted against that person. Or the President gave us somebody who basically we found did not have political ties to either side, who basically ruled on the law—the best interpretation of the law—and with the Constitution always at the forefront. That is the person he gave us, and that is the person we would support. But if we never get a chance to look at whoever is given to us, there is no way we can move forward.

When I was Governor of my great State of West Virginia, I had to do the job 24 hours a day, 7 days a week, every minute of every day, every day of every week, every week of every month, every month of every year. It was expected. That was my job, and I tried to do the best I could. There were some times when I had to make some tough decisions. There were times I drew people together and times when there was so much division that we had to basically let it cool off and then move forward. But we always kept trying to do a better job for the people of West Virginia.

I think the American people expect us to do a better job. I really do. I don't care who gets credit for it—Republicans, Democrats. Basically, it should be all of us because the way this body works, it takes 60 votes to get on something, if we want to make that the criteria.

With that being said, I can assure you there will not be a person the President of the United States gives us—whether it is this President or the next administration and the next President—who will be the perfect jurist. We are not going to find that perfect jurist. We are not going to find someone slanted too far to the left or too far to the right so that we can't get 60 votes. We are going to have to find somebody who has shown some common sense and has some civility about them, basically using the Constitution as the basis and framework for the decisions they made as a jurist, and show that is how they are going to govern in the highest Court in the land and be a model for the rest of the world, reflecting that we are still a government of rules. We are a body where the rule of law means everything. It is hard for us to do that if we can't find someone who we feel is qualified to do the job.

So, Mr. President, I urge all my colleagues—all of my colleagues in this great body and all of my dear Republican friends—to look and think about this. If the right person is not there, don't vote for them. As a matter of fact, I would probably vote against them too. I have before. I think I am the most centrist Member of this body, and I am going to vote for what I think is good for my country and for the State of West Virginia. I think the people of West Virginia expect me to do that, and they expect me to do my job too.

With that, I hope we have another opportunity to think this over. The President probably will be giving us

somebody in very short order. I would hope we are able to move to where the Judiciary Committee is able to look at that person, give us their findings on that person, and either tell us why we should not advise the President we are going to consent or find a person we can all agree upon and move forward.

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

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

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

MORNING BUSINESS

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

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

75TH ANNIVERSARY OF THE NEVADA PARENT TEACHER ASSOCIATION

Mr. REID. Mr. President, I wish to honor the 75th anniversary of the Nevada Parent Teacher Association. The Nevada PTA will formally celebrate 75 years of advocacy and work for and on behalf of the children of Nevada, at various events in the State during the last week of April.

Since 1941, the Nevada PTA has been part of the Nation's largest volunteer child advocacy association. The organization promotes education, health, safety, and the arts to the children of Nevada and has been instrumental in fostering the growth of countless students. The Nevada PTA takes pride in ensuring that schools are a central part of the communities in which they reside. The organization has led efforts to curb childhood obesity, foster connections between children and the important men in their lives, and promote volunteering in innovative ways.

Since its inception, they have also been a strong supporter of art programs that allow children to grow as students and people. Working with the national association, the Nevada PTA has participated in art programs that allow children to create original works of art in categories such as photography, film, and music composition. These programs not only encourage students to be creative, but also allow connections with fellow classmates that share common interests.

Nevada PTA exemplifies the broader objective of the National PTA, advocacy for all children. Multiple schools in Nevada have been recognized by the National PTA for the School of Excellence Awards which are granted to institutions that promote diversity, demonstrate clarity in academic standards,