

to the Acting President pro tempore, you have made a proposal that, in the words of LINDSEY GRAHAM, will not get a single Democratic vote. It can't pass. At the same time, the Senators from Illinois, New Jersey, Colorado, Arizona, South Carolina, and Colorado are painstakingly putting together a proposal where both sides give quite a bit.

So there are sprouts of bipartisanship—more than sprouts—that could save us from eyeball-to-eyeball and from a shutdown. My hope is that the President will understand it because the bill that was put together here in the Senate was painstakingly pieced together to meet what the President said he needed. It protects the Dreamers; includes President Trump's full budget request for border security—far more than I would want to do—including funding to build barriers along the southern border; deals with family reunification—they call it chain migration—for the Dreamers.

I know that some have said: Let's do it for the whole immigration bill, and let's talk about the 11 million, not just the Dreamers.

If you want to do comprehensive, let's do comprehensive, but first let's get DACA done.

And, of course, they even got rid of the diversity program, which, as the President noted, I was the author of and which has brought millions of people to this country who are working hard and are good citizens now.

So it is almost everything the President requested in his televised Tuesday meeting, which got such good reviews from one end of the country to the other.

This bill is certainly not how Democrats would have written the bill if we were in charge, and it is not how Republicans would have written the bill if they were the only party in America. If they were, they might go for the proposal from the Senator from Arkansas. But it is on the hard right. Seventy percent of America is for Dream and DACA—I think 80 percent now. Most Americans are for a comprehensive immigration bill that does all these things. So if we want to get something done, we ought to compromise in a bipartisan way.

For those on this side and in the other body who say we need defense, the way we are going to get it is through bipartisan compromise. This side does not object to increasing defense alongside of other needs that are just as important, in our judgment. A parent whose son or daughter died of opioid addiction because they couldn't get treatment doesn't think that opioid addiction should play second fiddle to any proposal.

The majority leader dismissed the urgency of solving the fate of Dreamers. He calls it a manufactured crisis. It was manufactured by the Republican Party. President Trump rescinded the DACA Program, not a Democrat. It was the majority leader's decision to kick the can down the road for months

while bipartisan majorities would have likely supported something close to the Dream Act. It was President Trump who turned his back on a bipartisan solution last week and used vulgarities to demean the ancestral homelands of so many Americans. And almost no American doubts that the President used those terms. Nobody doubts it—hardly anybody.

As I said yesterday, a very fair, bipartisan deal remains on the table. Senators DURBIN and GRAHAM will release the text of their legislation today. My Republican colleagues, I hope, will consider it. And I recommend we get on the bill, and then we can solve the problems that some on one side see—needs for defense—seen on both sides; some of the problems this side sees; some of the problems that side sees; and not do the kind of bill that leaves out or kicks the can down the road for many more problems.

I challenge President Trump: Step up to the plate and take yes for an answer. Democrats have met you halfway, Mr. President. You meet us halfway. The time for political posturing is running short.

Bipartisan groups of Senators and Congressmen are fervently working towards a deal. President Trump ought to get on board, or Congress will move forward without him.

#### CHINA TRADE POLICY

Mr. SCHUMER. Mr. President, on one other issue—this is really in my craw—the New York Times reported that one of the fastest growing Chinese car companies is plotting ways to sell cars in America. According to the Times, by pursuing a partnership with Fiat Chrysler, the Chinese state-owned company GAC Automobiles hopes to enter the U.S. market through the backdoor. It would be the first Chinese car maker to sell in the United States. If they were to do so, they would face a 2.5-percent tariff here in the United States. Meanwhile, if a U.S. automaker sold cars in China, it would face a 25-percent tariff—10 times higher—and would have to compete with state-owned businesses and unfair regulations.

So while China prevents U.S. automakers from gaining a foothold in their country with prohibitive tariffs—what the Times called “the highest trade barriers by far of any major car market”—they are plotting ways to eat into our market. It is manifestly unfair and a perfect example of China's rapacious trading policies.

President Trump and his campaign won a lot of votes by promising over and over again that he would crack down on Chinese mercantilism, but once in office, unfortunately, like so many of his other promises and commitments to working Americans, he has not done it. And he has delayed trade enforcement against China time and time again. Even the studies he has commissioned have been delayed.

We need to get serious about these flagrant trade abuses before it is too late. Middle-class jobs and bedrock American industries are at stake.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### RAPID DNA ACT OF 2017

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to concur in the House amendment to S. 139, which the clerk will report.

The senior assistant legislative clerk read as follows:

House message to accompany S. 139, a bill to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes.

Pending:

McConnell motion to concur in the amendment of the House to the bill.

McConnell motion to concur in the amendment of the House to the bill, with McConnell amendment No. 1870 (to the House amendment to the bill), to change the enactment date.

McConnell amendment No. 1871 (to amendment No. 1870), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

#### TRUTH AND DEMOCRACY

Mr. FLAKE. Mr. President, near the beginning of the document that made us free, our Declaration of Independence, Thomas Jefferson wrote: “We hold these truths to be self-evident.” So from our very beginnings, our freedom has been predicated on truth. The Founders were visionary in this regard, understanding well that good faith and shared facts between the governed and the government would be the very basis of this ongoing idea of America.

As the distinguished former Member of this body, Daniel Patrick Moynihan of New York, famously said, “Everyone is entitled to his own opinion, but not his own facts.” During this past year, I am alarmed to say, Senator Moynihan's proposition has likely been tested more severely than at any time in our history. It is for that reason that I rise today to talk about the truth and the truth's relationship to democracy, for without truth and a principled fidelity to truth and to shared facts, our democracy will not last.

Mr. President, 2017 was a year which saw the truth—objective, empirical,

evidence-based truth—more battered and abused than at any time in the history of our country, at the hands of the most powerful figure in our government. It was a year which saw the White House enshrine “alternative facts” into the American lexicon as justification for what used to be simply called old-fashioned falsehoods. It was a year in which an unrelenting daily assault on the constitutionally protected free press was launched by the same White House, an assault that is as unprecedented as it is unwarranted.

“The enemy of the people” was what the President of the United States called the free press in 2017. It is a testament to the condition of our democracy that our own President uses words infamously spoken by Joseph Stalin to describe his enemies. It bears noting that so fraught with malice was the phrase “enemy of the people” that even Nikita Khrushchev forbade its use, telling the Soviet Communist Party that the phrase had been introduced by Stalin for the purpose of “annihilating such individuals” who disagreed with the supreme leader. This alone should be the source of great shame for us in this body—especially for those of us in the President’s party—for they are shameful, repulsive statements.

And, of course, the President has it precisely backward—despotism is the enemy of the people. The free press is the despot’s enemy, which makes the free press the guardian of democracy. When a figure in power reflexively calls any press that doesn’t suit him “fake news,” it is that person who should be the figure of suspicion, not the press.

I dare say that anyone who has the privilege and awesome responsibility to serve in this Chamber knows that these reflexive slurs of “fake news” are dubious at best. Those of us who travel overseas, especially to war zones and other troubled areas all around the globe, encounter members of U.S.-based media who risk their lives and sometimes lose their lives reporting on the truth. To dismiss their work as fake news is an affront to their commitment and their sacrifice. According to the International Federation of Journalists, 80 journalists were killed in 2017. A new report from the Committee to Protect Journalists documents that the number of journalists imprisoned around the world has reached 262, which is a new record. This total includes 21 reporters who are being held on “false news” charges.

So powerful is the Presidency that the damage done by the sustained attack on the truth will not be confined to this President’s time in office. Here in America, we do not pay obeisance to the powerful. In fact, we question the powerful most ardently. To do so is our birthright and a requirement of our citizenship. And so we know well that, no matter how powerful, no President will ever have dominion over objective reality. No politician will ever tell us what the truth is and what it is not.

And anyone who presumes to try to attack or manipulate the press for his own purposes should be made to realize his mistake and be held to account. That is our job here. That is just as Madison, Hamilton, and Jay would have it.

Of course, a major difference between politicians and the free press is that the free press usually corrects itself when it has made a mistake. Politicians don’t.

No longer can we compound attacks on truth with our silent acquiescence. No longer can we turn a blind eye or a deaf ear to those assaults on our institutions.

An American President who cannot take criticism, who must constantly deflect and distort and distract, who must find someone else to blame, is charting a very dangerous path. And a Congress that fails to act as a check on the President adds to that danger.

Now we are told via Twitter that today the President intends to announce his choice for the “most corrupt and dishonest” media awards. It beggars belief that an American President would engage in such a spectacle, but here we are.

So 2018 must be the year in which the truth takes a stand against power that would weaken it. In this effort, the choice is quite simple, and in this effort, the truth needs as many allies as possible. Together, my colleagues, we are powerful. Together, we have it within us to turn back these attacks, to right these wrongs, repair this damage, restore reverence for our institutions, and prevent further moral vandalism. Together, united in this purpose to do our jobs under the Constitution, without regard to party or party loyalty, let us resolve to be allies of the truth and not partners in its destruction.

It is not my purpose here to inventory all the official untruths of the past year, but a brief survey is in order. Some untruths are trivial, such as the bizarre contention regarding the crowd size at last year’s inaugural, but many untruths are not at all trivial, such as the seminal untruth of the President’s political career—the oft-repeated conspiracy about the birthplace of President Obama. Also not trivial are the equally pernicious fantasies about rigged elections and massive voter fraud, which are as destructive as they are inaccurate; to the effort to undermine confidence in the Federal courts, Federal law enforcement, the intelligence community, and the free press; to perhaps the most vexing untruth of all—the supposed “hoax” at the heart of Special Counsel Robert Mueller’s Russia investigation.

To be very clear, to call the Russian matter a “hoax,” as the President has done so many times, is a falsehood. We know that the attacks orchestrated by the Russian Government during the election were real. They constituted a grave threat to both American sovereignty and to our national security.

It is in the interest of every American to get to the bottom of this matter, wherever the investigation leads.

Ignoring or denying the truth about hostile Russian intentions toward the United States leaves us vulnerable to future attacks. We are told by our intelligence agencies that these attacks are ongoing. Yet it has recently been reported that there has not been a single Cabinet-level meeting regarding Russian interference and how to defend America against these attacks—not one. What might seem like a casual and routine untruth—so casual and routine that it has now become the white noise of Washington—is, in fact, a serious lapse in the defense of our country.

Let us be clear. The impulses underlying the dissemination of such untruths are not benign. They have the effect of eroding trust in our vital institutions and conditioning the public to no longer trust them. The destructive effect of this kind of behavior on our democracy cannot be overstated.

Every word that a President utters projects American values around the world. The values of free expression and reverence for the free press have been our global hallmark, for it is our ability to freely air the truth that keeps our government honest and keeps the people free. Between the mighty and the modest, truth is a great leveler. So respect for freedom of the press has always been one of our most important exports.

But a recent report published in our free press should raise an alarm. I will read from the story: “In February, Syrian President Bashar Assad brushed off an Amnesty International report that some 13,000 people had been killed at one of his military prisons by saying, ‘You can forge anything these days,’ we are living in a fake news era.”

In the Philippines, President Rodrigo Duterte has complained of being “demonized” by “fake news.” Last month, the report continues, with our President “laughing by his side” Duterte called reporters “spies.”

In July, Venezuelan President Nicolas Maduro complained to the Russian propaganda outlet that the world media had “spread lots of false versions, lots of lies” about his country, adding: “This is what we call ‘fake news’ today, isn’t it?”

There are more.

A state official in Myanmar recently said: “There is no such thing as Rohingya. It is fake news.”

He was referring to the persecuted ethnic group.

Leaders in Singapore, a country known for restricting free speech, have promised “fake news” legislation in the next year—and on and on and on.

This feedback loop is disgraceful. Not only has the past year seen an American President borrow despotic language to refer to the free press, but it seems he has now, in turn, inspired dictators and authoritarians with his own language. That is reprehensible.

We are not in a “fake news” era, as Bashar Assad said. Rather, we are in an era in which the authoritarian impulse is reasserting itself to challenge free people and free societies everywhere.

In our own country, from the trivial to the truly dangerous, it is the range and regularity of the untruths we see that should be the cause for profound alarm and spur to action. Add to that the by now predictable habit of calling true things false and false things true, and we have a recipe for disaster.

George Orwell warned: “The further a society drifts from the truth, the more it will hate those who speak it.”

Any of us who have spent time in public life have endured news coverage we felt was jaded or unfair, but in our positions, to employ even idle threats, to use laws or regulations to stifle criticism is corrosive to our democratic institutions. Simply put, it is the press’s obligation to uncover the truth about power. It is the people’s right to criticize their government, and it is our job to take it.

What is the goal of laying siege to the truth? In his spurring speech on the 20th anniversary of the Voice of America, President John F. Kennedy was eloquent in the answer to that question. He said:

We are not afraid to entrust the American people with unpleasant facts, foreign ideas, alien philosophies, and competitive values. For a nation that is afraid to let its people judge the truth and falsehood in an open market is a nation afraid of its people.

The question of why the truth is now under such assault may be for historians to determine, but for those who cherish American constitutional democracy, what matters is the effect on America and her people and her standing in an increasingly unstable world, made all the more unstable by these very fabrications. What matters is the daily disassembling of our democratic institutions.

We are a mature democracy. It is past time to stop excusing or ignoring or, worse, endorsing these attacks on the truth. For if we compromise the truth for the sake of our politics, we are lost.

I sincerely thank my colleagues for their indulgence today. I will close by borrowing the words of an early adherent to my faith that I find has special resonance at this moment. His name was John Jacques. As a young missionary in England, he contemplated the question: What is truth? His search was expressed in poetry and ultimately in a hymn that I grew up with titled, “Oh Say, What is Truth?” It ends as follows:

Then say, what is truth? ’Tis the last and the first,

For the limits of time it steps o’er.  
Tho the heavens depart and the earth’s fountains burst,

Truth, the sum of existence, will weather the worst,

Eternal, unchanged, evermore.

Thank you, Mr. President.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise today to thank my colleague Senator FLAKE for his words and to join with him in standing up for the First Amendment.

When I was at home over the last recess, I read Senator FLAKE’s book, and one of the many things I took away from that book, which I thought was quite an amazing book, was the fact that when he was growing up, his family had a 3-by-5 card on their refrigerator. They looked at it every day, and it said: “Assume the best and look for the good.”

The way he has articulately talked about our Constitution today, he is assuming the best, as we all should do, about the citizens of this country and that they will look at this document and care about this document and understand why the First Amendment is so important to our freedom.

For me, this started at home. My dad was a reporter his entire life. He went from a hardscrabble mining town in Ely, MN, to go to a 2-year community college, and then got a journalism degree at the University of Minnesota. He got his first job at the Bismarck paper in North Dakota. He served during the Korean war and finally ended up at the Star Tribune in Minneapolis.

He went from that mining town and saw the world. He got to interview everyone from Ronald Reagan to the Chicago Bears coach, Mike Ditka, to Ginger Rogers. But through it all, he saw his mission as a mission of searching for the truth, whether it was standing outside of political conventions through tear gas or whether it was calling the election in 1960, when he was with the AP, for John F. Kennedy.

The world has changed since my dad was a journalist, but the role of journalism hasn’t changed in any way. We need the protection of the First Amendment now more than ever. As Senator FLAKE has pointed out, it was Thomas Jefferson and our Founding Fathers who saw the importance of journalism and the importance of the First Amendment. Thomas Jefferson once wrote that our first objective should be to leave open “all avenues to truth,” and the most effective way of doing that is through the freedom of the press.

While the most extreme forms of anti-press behavior have happened abroad, as pointed out by Senator FLAKE—with journalists being murdered, being put in fear of their very lives and their families’ lives—there has been a growing aggression toward journalists in our own country.

During the campaign, then-Candidate Trump mocked a disabled reporter. During his Presidency, he has referred to journalists as dishonest, as disgusting, as scum. During President Trump’s first month in office, his administration coined the phrase “alternative facts,” attempting to undermine the fact-checking efforts of reporters. That same week, another senior White House official said that the press should “keep its mouth shut.”

The President has taken to Twitter countless times to attack news organizations and to discredit specific journalists. He has threatened to challenge the licenses of specific news networks and these networks that ran negative stories. There are even reports that the administration is using anti-trust enforcement authority as leverage to secure positive media coverage.

Just last week, the President suggested weakening the very laws that protect journalists. He threatened to open up our libel laws so that he could sue the media for writing negative or unfavorable stories. This is unacceptable. This is unacceptable because we are a beacon for the freedoms across the world, but it is also unacceptable here at home.

So what can we do about it? We can make sure that this administration’s views, first of all, are not carried through into the actions of the Department of Justice. We must ensure that the Department continues to follow the guidelines that have been in place for a number of years to protect journalists, even if those journalists criticize the government and even if they uncover facts that are uncomfortable for the government.

During his time in office, Attorney General Eric Holder committed not to put reporters in jail for doing their jobs. He also strengthened the Justice Department protections for journalists and their sources. The loophole was closed that allowed the government to get around bans on search warrants for reporting material. They tightened guidelines that are used to issue subpoenas that would require journalists to disclose their confidential sources. They understood the roles these guidelines play in our democracy. Attorney General Holder said they strike an appropriate balance between law enforcement’s need to protect the American people and the news media’s role in ensuring the free flow of information.

Over the last year, during Judiciary hearings, I asked Attorney General Sessions twice if he would commit to protecting journalists from being jailed for doing their jobs. It was a simple question. He wouldn’t. Both times he would not commit, and he said he had to review the rules. Well, it has been nearly a year, and there has been enough time to review the rules. I still have not received an answer to my question. I think we would all agree that after almost a year as leader of the Justice Department, it is past time he made this commitment.

Let me be clear. The President doesn’t have the legal authority to undercut our libel laws. No matter what he says, our courts still uphold the safeguards and must uphold the safeguards we place on the press’s freedom.

In *New York Times v. Sullivan*, the landmark Supreme Court decision is crystal clear in its protections of journalists who cover public officials. The standard for libel is well established. It is not subject to the whims of the politics on any given day.

While Supreme Court Justice Neil Gorsuch and I do not agree on much, I questioned him on this landmark decision, and he agreed that the precedent is clear on First Amendment protections for journalists. The American people deserve the truth, and we rely on journalists to keep digging for it. That is something to celebrate, not to undermine.

Standing up for freedom—even one as fundamental as the freedom of the press—isn't always easy, but it is vitally important. The future of our democracy depends on the ability of journalists to do their jobs. We must uphold this freedom every single day.

With all of this in mind, I thank Senator FLAKE for his very important remarks, and I urge this Chamber to do everything we can to live up to Jefferson's words and to protect this essential avenue to truth.

I yield the floor.

The ACTING PRESIDENT pro tempore. The assistant Democratic leader.

Mr. DURBIN. Mr. President, I thank my colleagues, Senator FLAKE from Arizona and Senator KLOBUCHAR from Minnesota, for bringing this timely issue to the floor.

We are facing an attack on an American institution—an attack on our freedom of the press. Sadly, the President is making an award of some kind to what he considers to be corrupt media, but I am afraid, once again, his actions will cast a shadow over our constitutional commitment to the basic freedoms we enjoy in America.

We all know why freedom of the press was included in the Bill of Rights: because the Founding Fathers—those who crafted those critical words that have led us for more than two centuries—believed there should be an accountability, accountability when it came to the government, its actions, and to public officials. That accountability sometimes is painful, as Senator FLAKE has acknowledged. Many of us, as Members of the Senate, House, and other political roles, really hate to receive certain phone calls and questions from members of the press, but it is part of our responsibility, as public servants, as public officials, to be accountable to the public. That is what freedom of the press is about. I think that is the part that troubles and worries and pains the President the most; that he will be held accountable for the things he has said and the things he has done.

This notion of “fake news,” unfortunately, is a phrase which is being used, as Senator FLAKE noted, by despots and authoritarians around the world to try to silence critics and to silence the press in their countries. We cannot allow this regimen of “fake news” and “alternative facts” and words like those to diminish our commitment to the basic constitutional protection of freedom of the press. It is essential to the future of our democracy.

#### IMMIGRATION

On January 11, last Thursday, I was invited to a meeting at the White

House to discuss the issue of immigration. Sadly, at that meeting, there were things said by the President and those who were with him on the issue which I believe constituted an attack on another basic element of American history: the history of immigration.

We are a nation of immigrants. That diversity that has come to these shores from all across the world is a diversity which makes us strong. We consider our land of origin, whatever it may be, but we love the land we live in. That was what immigration has meant to us and to previous generations for so many years.

Words spoken by the President at that meeting were stunning and, in some respects, disgusting to think that the President would make the comments he did. For the sake of our CONGRESSIONAL RECORD, for the Senate, and for those who are watching, I will not repeat the President's words. They have been reported in the press, but I want to go to the heart of his criticism.

He was raising a basic question as to whether the United States should continue to be open to immigration from all around the world. I believe we should. Americans believe we should. We know that men and women, even of humble circumstances, who come to the United States determined to make a life, to make a future, and to help their families have made a profound difference in our country, in terms of its past and its future, and they have come from every corner of the world.

Senator LINDSEY GRAHAM was at that same meeting on January 11. He spoke up when the President uttered those infamous words which have been reported, and he noted that when it came to his family, they came from one of the countries the President described, and they came with little or nothing to offer, but they wanted to be part of America. They came here and made a business, made a life, made a future, and brought to the Senate an extraordinary Member representing the State of South Carolina. Many of us can tell the same story.

My mother was an immigrant to this country. She was brought here in 1911 at the age of 2 from Lithuania. Lithuania was not exactly a prosperous nation in those times. It was under the thumb of a Russian czar, and it is one of the reasons my family left. One thing my grandmother carried with her on that trip, and I still have today, was a Roman Catholic prayer book, written in the Lithuanian language, which had been banned by the Russian Government. She secreted this away in her luggage and brought it to the United States because she knew, and we know, that there is freedom of religion in this country, and no government was going to stop her from saying her prayers in her own language. That is my story. That is my family's story. That is America's story.

What the President said in the White House last week did not recognize that

fundamental truth; that people just like my mother and my grandmother and just like LINDSEY GRAHAM's parents came to this country not because they were engineers, Ph.D.s, or wealthy people, they came here with the desire to build a life and to build a nation, and they have done it.

When we hear all this talk about merit immigration, let's have merit selection of the people who are coming to these shores—of course, there are certain experts we bring in with certain visas to fill needs in business and research, but, by and large, we bring to this country people who are desperate to be part of our future, and we also bring people who want to be part of their family.

We hear this phrase, “linked migration”; that somehow or another, if we bring one immigrant in, they are going to bring in 100, and some of them may not be desirable. What we find overwhelmingly is just the opposite is true. It is family unification. It is building the strength of a family. Isn't that fundamental to who we are as Americans?

I know, in my family and many others, relatives who came in from other places really strengthened our family unit and gave us a chance to help one another have a chance to succeed.

Now we face a critical moment—a critical moment on the issue of immigration. I listened to the Republican leader come to the floor today, Senator MCCONNELL, and when he speaks of DACA and the Dreamers, he uses the words “illegal immigration.” Technically, I suppose it is illegal. Those we are talking about are undocumented, but we have drawn a distinction over the years as to what happened to these young people and why they should be seen differently.

They were brought to the United States as infants and toddlers and children—at best, teenagers—who had no voice in whether they were coming to this country. Did they break the law by overstaying a visa or crossing the border? Well, technically, of course they did, but should they be held culpable today? Should we deport these young people or give them a chance to be part of our future? This is not some idle philosophical discussion. This is a discussion made real by this administration, the Trump administration.

It was September 5, of last year, when this President announced he was going to repeal DACA—the program started by President Obama to protect these young people living in the United States. Seven hundred eighty thousand of them have enrolled, and President Trump said, as of March 5, 2018, that program will be ended. Then he turned and challenged the U.S. Congress: Pass a law. If you don't like what I have done with this Executive order, pass a law.

So here we are, over 4 months later, and the question has to be asked of the Republican leaders in the House and

the Senate: What have you done to answer the President's challenge? The answer, quite honestly, is precious little, if anything.

The Republican leader comes to the floor today and says: There is no hurry. We can get to this later. It will not expire until March 5. What he ignores is the obvious: 15,000 protected young people lost that protection during this period since September 5—122 a day are losing that protection.

Fortunately, last week, a California court stepped in and said: Stop taking away the protection of DACA from these young people. So we have a temporary stay, being challenged by the Trump administration, which protects these young people for now, but that protection could end in a court decision tomorrow. That is the reality of life for young people.

Yesterday, in the Senate Judiciary Committee, we asked the Secretary of the Department of Homeland Security: Do you believe the President can extend his March 5 deadline for the end of DACA?

She said: No; the President said he doesn't have that authority.

Well, I will trust her statement and her judgment on that, but it further should put to rest this argument made by Senator MCCONNELL that we have all the time in the world to deal with this issue.

Let me tell you, on March 5—the deadline imposed by the President. As of March 5, horrible things will happen to innocent people. One thousand young people a day, protected by DACA, will lose their protection. I had one of them at the hearing yesterday. She is a young woman who has used her extraordinary skills to apply to medical school, and Loyola University Stritch College of Medicine accepted DACA-protected young people for the first time. There are 28 of them in their ranks.

She wants to be a doctor. She has helped people in underserved areas throughout her young career, but we know—everyone knows—that becoming a doctor means serving a residency, working those long hours to learn what it means to face clients or patients in a clinical setting. To become a resident, you need to be employed to take that job.

If this young woman, who has devoted so many years of her life to her dream of being a doctor, loses the protection of DACA, she cannot apply for residency. She is finished. There will be no further progress in her medical education. That will happen, starting on March 5, to 1,000 young people a day. So I would say to Senator MCCONNELL, the Republican leader, there is a sense of urgency. We can't put this off.

The good news is, six U.S. Senators—three of us on the Democratic side and three on the Republican side—have been doing what no other committee has done, no other Senators have done. We put together a bipartisan compromise that moves us forward on this

DACA issue. It is something that took 4 months, and they weren't an easy 4 months. They were difficult. We had to debate some of the hardest issues and come to an agreement. I ended up giving ground on some things which I wish I didn't have to, and I am sure those on the Republican side feel the same way, but that is why we were sent here—weren't we?—Democrats and Republicans, to find a solution to the problems that face us, and this is a very real problem.

So now the Republican leader comes to the floor and says: We don't have time to discuss this. We have to get out of here at the end of the week. Well, I disagree with him. We have enough time to do it.

Take a look at this empty Senate floor and tell me we don't have enough time to take care of the DACA issue. Tell me we don't have an opportunity to come to this floor and bring the Senators here and do what we were elected to do—to debate this issue, to vote on this issue, to solve a problem in America. This empty Chamber is testimony to the fact that the Senate has done precious little for the last year and plans to do just about the same during the course of this year.

I am proud to be a Member of the Senate, but I will tell you, I was prouder in the days when we actually debated measures on the floor, we ended up passing legislation to deal with America's challenges and problems, instead of what we face today—an exchange of speeches in an empty Chamber. So we have work to do.

This morning, I went over to the Department of Defense and met with Secretary Mattis. I respect him. He is our Secretary of Defense and was a four-star general in the Marine Corps. The man has served his country with distinction. He talked about what is going to happen to the budget of the Department of Defense if Congress doesn't act. We told him we want to get this job done, but we also said to Secretary Mattis: There are other elements of this government, there are other issues before us that need to also be brought forward.

You heard Senator SCHUMER from New York, the Democratic Senate leader, come to the floor and turn to Senator MCCONNELL and say: Why is it always a take-it-or-leave-it when it comes to these measures? Why aren't we sitting down, on a bipartisan basis, to come up with a good way to move forward?

It has been 119 days into this fiscal year, and we still don't have a budget for the United States of America. That is not just embarrassing, it is scandalous. To think that we have over \$1 trillion that needs to be debated and spent, and we haven't been able to do it, and we are one-third through this fiscal year. The net result of that, of course, is to waste precious taxpayer dollars and the energy of our elected officials who want to be applying that energy to solving problems rather than the problems Congress creates.

We can do this, and we can do it on a bipartisan basis. Senator LINDSEY GRAHAM and I, along with four of our colleagues, have a measure we are going to present to the U.S. Senate. The purpose of that measure is to make it clear we are ready to debate, we are ready to move forward, and we are ready to solve this problem that faces hundreds of thousands of young people across the United States of America.

Some can call it illegal immigration, as Senator MCCONNELL has, others have called it amnesty. Whatever they wish to call it, 80 percent of Americans believe we can solve this problem.

As you walk around the Capitol and the Capitol buildings, you will see young people who may step forward to introduce themselves. Many of them have never been to Washington before. I met one yesterday who had driven for 35 hours to come here. Why was she standing in the corridors of the Dirksen Building on Capitol Hill? She is a Dreamer. She is protected by DACA. Her whole life is hanging in the balance as to whether this Congress will actually do something to solve the problem.

She and others have come forward to challenge us. We should accept that challenge, and we should meet it this week. We should say to President Trump: We have met the challenge that you put forth just 8 days ago, when on Tuesday of last week you said to us: Send me a bill, and I will sign it. I will take the political heat. And don't take a lot of time to do it.

We met that challenge with this bipartisan measure that we proposed, and now we challenge others on the same issue. Come forward with your proposal. Come forward with your idea. If you don't, at least give us a chance to present this bipartisan measure, which we have worked on long and hard, to solve this critical issue.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SULLIVAN). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

#### FUNDING THE GOVERNMENT

Mr. HATCH. Mr. President, as we move closer to the expiration date for Federal Government funding at the end of the week, there is no shortage of rancor in the air. Pundits and partisans have, for weeks now, been arguing incessantly about a wide range of issues, all of which, in one way or another, have been tied to the fast-approaching deadline. Don't get me wrong, there are legitimate issues at play this week. These debates, to the extent they are focused on solutions, are meaningful, and I am optimistic we can find solutions.

Today I would like to talk about some of the more positive developments we have seen recently with regard to healthcare aspects of the current debate. As we know, last night, leaders in the House unveiled a legislative package that would keep the government funded as well as address some bipartisan healthcare priorities, including some issues I have personally been working on for some time. I am hoping the House will pass this legislation in short order and that the Senate will quickly follow suit.

Let me talk about some of the specifics in the package. First, the House bill would extend funding for the Children's Health Insurance Program for 6 years, which is the longest extension since the creation of the program. As I am sure the Presiding Officer knows, I am the original author of the CHIP Program. Twenty years ago, Senator Ted Kennedy joined with me to draft the original CHIP legislation and to move it through Congress on a bipartisan basis. I have maintained my commitment to this program for the past two decades, even during times when others sought to change it dramatically from its original purpose.

During this Congress, as the chairman of the Finance Committee, I have been working with colleagues on a long-term reauthorization of CHIP, despite some contrary claims that I and the Republican leadership had somehow neglected or forgotten about the CHIP Program and had no intention of reauthorizing it. It is no secret that I have taken some flak in some corners of the Senate from colleagues looking to get some political mileage out of the issue I have worked so hard to keep bipartisan, but I will remind my colleagues that this past September, the Finance Committee's ranking member, Senator WYDEN, and I introduced a long-term, bipartisan CHIP extension bill that was overwhelmingly reported out of the committee. A number of my colleagues, including some who were on the committee and voted in favor of that bill, seem to have forgotten this legislation had been drafted and reported. We have endured a number of speeches and television appearances from colleagues accusing Republicans of "abandoning children in need." My gosh. This is even though our friends on the other side were entirely aware that the effort to reauthorize the program had been continually moving forward.

The House's bill is identical to the legislation Senator WYDEN and I introduced last fall, except that the funding continues for 1 more year. As I noted, it extends CHIP for 6 years. We have never gotten such a long extension since the creation of the program over 20 years ago.

I hope my colleagues in the Senate, particularly those who have been so outspoken and righteous in their condemnations of Republicans regarding CHIP will support this legislation. It would be odd to see them vote it down

after all the acrimony we have endured over the past few months.

In addition to the historic CHIP reauthorization, the House legislation addresses some other long-term priorities of mine: the taxes imposed by the so-called Affordable Care Act. Under the bill, the job-killing medical device tax will be delayed for another 2 years. This foolhardy tax, which has been criticized and condemned by Members of both parties, will come back into effect at the start of this year.

Eliminating this tax has been an important cause to me since the day ObamaCare was signed into law. Utah is home to some of our Nation's most innovative medical device companies, and the United States has led the world in developing lifesaving and life-improving medical technology, an advantage that was threatened by this poorly crafted and irresponsible tax. I would like to see the medical device tax repealed entirely. I have introduced a number of bills to that effect over the years, but until we get that done, it is important that we keep shielding American consumers, patients, families, and job creators from the impact of this tax. The House bill would prevent the medical device tax from hitting any device innovators and their customers until 2020 at the earliest.

The House package also extends the delayed impact of the so-called Cadillac tax, which is another one of ObamaCare's ill-advised shots aimed at the middle class. Again, Members from both parties have expressed concern and opposed this tax. Previous delays have received broad bipartisan support. The House bill would put off the impact of the Cadillac tax through 2021, and I am hopeful this delay receives bipartisan support in the House and Senate.

Finally, the bill would pull back the health insurance tax, which is another reckless tax provision, for 2019. This tax targets small businesses and middle-class consumers. There is not even a set rate for this tax. There is a revenue target, and the rate moves around from year to year in order to raise a specified amount. The results are increased costs passed along to insurance beneficiaries in the form of higher premiums and increased burdens on small businesses. The House bill will give additional relief from this tax starting in January of next year so insurers can lower premiums before the 2019 filing period.

So, as we can see, in addition to keeping the government open, the legislative package unveiled last night in the House would address some key bipartisan healthcare priorities.

I urge my colleagues on both sides of the aisle to support this approach. Given their recent statements on some of these issues and their past votes, I think many Democrats would have a hard time explaining to their constituents why they oppose these measures.

While there are still a number of healthcare priorities that must be ad-

ressed as quickly as possible, including Medicare extenders, I am very pleased to see the House moving forward with a long-term extension of CHIP and relief to some of the most burdensome ACA taxes. I have been working with my colleagues in both parties and in both Chambers to bring these efforts to fruition. Once again, I hope all of my colleagues will join me in supporting this legislation once we receive it from the House.

Having said that, let me make my second set of remarks.

#### IMMIGRATION

Mr. President, I rise to speak on immigration reform. For nearly 20 years, we have been talking about the Dreamer population. We have been talking about border security for just as long. It is time we did something, and there is a lot of desire among my colleagues to find a path forward to make a deal, but as I said at yesterday's Judiciary Committee hearing, to do that, we need to be realistic.

To my Democratic friends, I say it is time to stop pushing for a clean Dream Act. As a matter of simple political reality, it is not going to happen.

To my Republican friends, I say we are not going to get the Sun, the Moon, and the stars. We should push for the best deal we can get, but we shouldn't let the perfect be the enemy of the good. So let's be realistic, and I say that to both sides, as one who has made a lot of deals in my time.

Here is where I am on the issue.

First, we need a deal that has broad support. I hope we can get that support from both sides. Certainly, with the Republican majority in Congress, any deal that moves forward must have broad Republican support and be supported by the President.

Second, we should be wary of false deadlines. There has been a lot of discussion that we need to have a bill done by this date or that date, even though those dates have nothing to do with relevant program deadlines. We should not create a false cliff and then plunge over it in a rush to get something done right this second. A deal on DACA is a deal worth doing, and it is worth doing right. Moreover, a deal on DACA should not just be about DACA.

Third, we need a deal that is going to help our economy. Our goal here should be to strengthen our country. We do that by supporting communities and families and by ensuring that law enforcement has the tools it needs to keep our country safe, but we also strengthen our country by helping businesses thrive and create good, high-paying jobs for our workers.

Fourth, we need a legislative solution for DACA. We can't keep kicking the can down the road and relying on dubious legal authority to keep individuals in our country. It is not fair to them, and it is not fair to others who are seeking to enter our country legally.

Fifth, we need meaningful improvements to border security and interior



enforcement, not a figleaf, not window dressing—real reform. There has been a lot of talk about a wall. To those who are unwilling to entertain any deal that will have wall funding, I say: Let's not let something that would amount to less than one-tenth of 1 percent of the Federal budget scuttle a once-in-a-generation deal.

Sixth, we need to close loopholes and reduce fraud and abuse. One area that has been particularly susceptible to these problems is the diversity visa lottery. I have long been skeptical of the program. In fact, I introduced legislation in 2011 to sunset the program unless changes were made to cut back on fraud and abuse.

Another area that constitutes an enormous potential loophole is the ability of individuals to come to our country illegally but then use family relationships to absolve themselves of the consequences of their illegal actions. I think it is a problem to allow people who come into our country in open violation of our laws to turn around and avail themselves of our Constitution and laws to backdoor themselves into lawful status. We need a better system than that.

Finally, I think high-skilled immigration needs to be part of the discussion. There has been a lot of talk recently about merit-based immigration. Well, high-skilled immigration is merit-based immigration. It is immigration targeted at the best, the brightest, and the most highly educated.

Next week, I plan to reintroduce my Immigration Innovation Act, or I-Squared Act. This bipartisan legislation, newly updated for this Congress, will better align high-skilled visas with market demand so that employers are able to hire the talent they need. It will help end our stupid practice of educating people here in the United States and then sending them back home to compete against us, and it will stop some of the troubling abuses we have seen with the H-1B visa program. We should welcome the best and the brightest in the world, regardless of their origin. My I-Squared Act will help us to do that.

Our immigration laws are a mess. They are a morass of conflicting and confusing obligations that reflect past Congresses' pet projects and idiosyncrasies, rather than any real overarching principle. I want a system that makes sense. I want a system that is merit-based. I want a system that doesn't penalize people who were brought to our country illegally through no fault of their own but that also discourages future unlawful entries. Surely, we can have a system that does both. Surely, we can find a path forward that is fair and just to the Dreamer population but that reduces future illegal immigration. Surely, we can design a system focused around economic growth rather than arbitrary allocations of visa numbers, and, surely, we can create an immigration pol-

icy that focuses on what individuals will contribute to our country rather than where they came from or who they know.

In short, as I said earlier, we should welcome the best and the brightest in the world, regardless of their country of origin. That should be our mantra as we move forward.

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

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

#### ORDER FOR RECESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. today.

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

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

The PRESIDING OFFICER (Mrs. ERNST). Without objection, it is so ordered.

#### FUNDING OUR MILITARY

Mr. SULLIVAN. Madam President, I was just in the Presiding Officer's chair and saw my colleague and my friend for whom I have a lot of respect, the Democratic whip, talking about some of the issues we are looking at right now, in particular, military spending and the appropriations we need to fund our military. He mentioned it was a priority. Certainly, it should be a priority. It is probably the most important thing we do here in the Congress. He said they are focused on it. We should all be focused on it.

I just thought I would reply a little because I think the facts of what has been going on here on the floor of the Senate the last couple of years would make one skeptical of that claim that it has been a focus of theirs.

Let me just give a few examples. I know the Presiding Officer is very familiar with all of these. In the last administration, from 2010 to 2016, military spending for the United States was cut by almost 25 percent. That was led by the previous President, despite the fact that there is no one who doubts that national security threats to our Nation have increased: We are going to cut defense spending by 25 percent—when there are threats around the world, and we know what they are—ISIS, Iran, China, and Russia. A lot of people like to talk about Russia, which is definitely a threat, but we are cutting defense spending by 25 percent. That makes no sense, but that is what has been going on.

When I got to the Senate, one of the first things that happened was that the previous administration decided that they were going to cut the Army by an additional 50,000 troops—Active-Duty Army troops. The Presiding Officer remembers the spring of 2015 and the big announcement that we were going to cut 50,000 more troops. That made no sense.

A number of us were very concerned about the direction the country was going, the Congress was going, and the administration was going with regard to our military. The good news is that there has been a bipartisan recognition that the cuts were way too dramatic and the increases and threats to our Nation have risen so significantly that we have to do something about rebuilding our military, rebuilding readiness, and rebuilding serious funding.

In this year's National Defense Authorization Act, led by my good friend from Arizona Senator MCCAIN, we actually authorized increased funding by up to \$700 billion. That was very bipartisan. As a matter of fact, there was a unanimous vote to move that out of the Armed Services Committee, on which I have the honor to serve with the Presiding Officer. Then, it was unanimous on the floor of the Senate. It was very bipartisan to authorize increased defense spending, but we haven't appropriated the dollars. So there is a difference there in terms of authorization and appropriations.

This has been a bipartisan failure of this body for years. How has it been working? We see how it has been working. We have these giant omnibus spending bills, usually, at the end of the year. If we can't do it, we do a CR, or a continuing resolution. It says that we will keep funding the government as is, and then we will do this giant bill with all of the spending for the year.

These CRs are really hurting our military. They hurt all kinds of Federal agencies because there is no predictability, but the one element of our Federal Government that really gets hurt by continuing resolutions—by these omnibus bills—is the men and women in the U.S. military.

As the Presiding Officer knows, general after general and civilian leaders in the military, whether Democrats or Republicans, come to the Congress and to our committee, and they say: These CRs are killing us; they are killing our readiness. We all say: Oh, yes, we know it is important. Then, this body does nothing. So it is not from a lack of effort.

I am going to tell a story that I think the other side doesn't want to remember, but I think it is really important to remember, particularly given what the minority whip said earlier today. When a number of us were elected in 2014, it was a big wave election. Twelve new Republican Senators came to this body, and they took control of the Senate. The one thing we said is this: We need to fix this appropriations process, which is clearly broken. We need to do

it the way it was intended—not with these smash-up derby, giant bills at the end of the year. We need to have a focused, disciplined approach to funding our government.

Everybody knows how it is supposed to work. You have the funding bills, 12 of them, and the Appropriations Committee, a very important and powerful committee, debates those for different sections of the Federal Government. They get voted on out of committee. Then, they come to the floor, and we vote on those 12 appropriations bills.

In 2015, a lot of us—particularly, the new Senators, and the Presiding Officer is one of them—said: We need to fix this. Let's do it the right way. And then we did. A lot of people don't remember, but the Appropriations Committee worked really hard under the Chairman, the great Senator from Mississippi, and they produced 12 appropriations bills in the spring of 2015.

As you know, most of those bills were bipartisan. Most of those bills came out of committee with really strong bipartisan numbers—so far, so good. We are trying to focus on this. We are trying to be disciplined.

The next step is that you bring the appropriations bills, one at a time, down to the floor. You debate them, and then you vote on them. Then, you try to get it over to the President to sign it—not a smash-up derby omnibus that is 5,000 pages, and nobody knows what is in it, but an appropriations bill on a singular subject.

That is what we tried to do. It came out of committee. We started bringing all those bills down to the Senate floor. Guess what happened at the next step? The minority leader was Harry Reid back in 2015. He decided that he was going to filibuster every one of those appropriations bills. Why? We said: Certainly, he is not going to filibuster things like the appropriations bill that came out of committee unanimously that funds our military. We have troops in combat. We have threats all over the world. That came out of committee. Let's at least vote on that one. Let's at least vote on the appropriations bill that came out of committee unanimously to fund our troops.

So what happened? The other side, led by the previous minority leader, Harry Reid, filibustered funding our troops. Let me repeat that. He filibustered funding our troops on a bill that was already out of committee unanimously—when our troops are at war.

So when I hear my colleagues on the other side say that they really care about funding the troops, I get a little skeptical. A number of us were quite upset about that. We went to our leader and said: Let's keep bringing this up. We guarantee you that if the people back home in any district in the country, your constituents—whether you are a Senator who is a Republican or Democrat—knew that they were filibustering funding the troops for no reason, they would get a little upset.

We brought that bill to the floor five different times over the course of a

couple of months, trying to get the singular appropriations bill to fund our military—which passed out of the Appropriations Committee unanimously—a vote on the Senate floor. Guess what. The other side filibustered it five times.

The Presiding Officer and I were on the floor with a bunch of our colleagues making the argument that this is outrageous, and then we asked the other side to come down and tell the American people why they were filibustering the funding for our troops. A lot of people here like to do the process thing, where they don't think people are watching—people in the Gallery, people on C-SPAN—and they never once came down and said: Here is why we filibustered funding for the troops five times in a row. They didn't want their constituents to see it because they knew their constituents—whether Democrats or Republicans—were going to say: You are doing what? You are filibustering the appropriations bill for the men and women who are fighting to defend our Nation? That is what you are doing?

Well, that is what they did. Yet they never explained it.

Again, when I hear the minority whip saying: We really care about funding the troops, I get a little skeptical. I am still waiting for the answer: Why did you do that?

As you know, we have a system right now that is broken. The budget system—the way we fund the government right now—I think, is a bipartisan failure. The normal way we appropriate and authorize is not working. It leads to what we are doing right now: these giant omnibuses, these continuing resolutions. It has happened so long—these year-end, smash-up derbies, where essentially, the leadership in the House and Senate—Democrat and Republican—and the White House go off somewhere, make a deal, and come back with this huge bill. It is not how the system is supposed to work. It is not doing our country justice.

Again, the good news is that there are a number of Senators—particularly some of the newer ones, a bipartisan group, by the way, of Democrats and Republicans—led by my friend and colleague from Georgia, Senator DAVID PERDUE, who are looking at a bipartisan way to fix this problem.

Right now the way we fund the government is that we have these end-of-the-year smash-up derby, massive, thousand-page omnibuses. When we can't get there, we do another CR, which really impacts our military negatively and a bunch of other elements of the Federal Government. We need to do better.

I am going to be working with my colleagues who are focused on this. It is going to be hard. It is not going to be easy. A lot of people like the smash-up derby approach, but it is not worthy of the American people who we are supposed to represent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

#### FUNDING THE GOVERNMENT

Mr. REED. Madam President, President Trump and the Republicans have been in charge of the White House, the House of Representatives, and the Senate for nearly a year now. Under their control, these three institutions have formed a Bermuda Triangle, if you will, for any kind of meaningful legislation that will help average Americans.

They devoted most of last year to a destructive attempt to eliminate health insurance coverage for 30 million Americans before pivoting to a partisan tax bill that benefits the powerful and costs trillions of dollars that could be spent many ways, including to enhance and improve our military equipment and our military personnel; \$1.5 trillion were dedicated to tax cuts for the wealthiest Americans and not to the men and women of the military. This tax legislation will also leave 13 million Americans without health insurance. So contrary to the President's declarations—or those of his campaign—that he has a great plan that will cover all Americans, 13 million Americans likely will lose their coverage.

Now, Congress is 2 days away from a government shutdown because, again, the majority and the President appear uninterested in governing, which means compromise. It means working on policy together with both Republicans and Democrats to deal with the real priorities—like jobs, education, infrastructure, and national security—that are essential to the American people.

The press has been focusing on the Trump-caused immigration crisis as the supposed cause for the Republican dilemmas at the moment. It is true that finding a solution for Dreamers is very important. Indeed, a poll cited by the Washington Post's editorial board this morning said that 82 percent of voters, including almost 70 percent of Republican voters, believe there should be a path to citizenship for Dreamers.

This immigration crisis is not the only unfinished business before Congress. We also have the Republican leadership's failure to make the effort early on to deal with some of the issues that are now facing us directly and affecting millions of Americans. Just think of some of the issues.

Since September, 9 million children who are covered by the CHIP program have essentially been going month to month on their healthcare coverage because the President, and this Congress, hasn't passed a 10-year extension that actually saves taxpayers money.

Community healthcare centers are such a vital part of our healthcare system. More than 25 million Americans use these centers. Once again, their funding is in limbo because the program has not been reauthorized.

Then there is the bipartisan Alexander-Murray bill to provide greater stability to private health insurance



markets. For a President who claimed he had a great plan to insure all Americans much better than the Affordable Care Act, there has been no movement on this important aspect of improving private healthcare insurance for Americans.

What about issues like the flood insurance program? We saw devastating floods in Florida and Texas. We know they are coming again. In fact, last year was the largest year in terms of government expenditures for storm damage that we have seen, including some of the wildfires that raged in the West. We know the floods will come again; yet a program we have for flood insurance is woefully underfunded, but that has not been dealt with.

Then, of course, at the heart of what so many talk about are the issues of the lingering sequestration caps that jeopardize defense and nondefense priorities alike. Indeed, by the way these caps are structured, our national security is jeopardized if we don't raise both defense and nondefense spending because under the category of non-defense are the State Department and other critical agencies. Without funding, they will not be able to protect the country, along with our Defense Department personnel. We have sought, over many months, a balanced solution to provide the resources necessary to cover the gamut of government programs for the benefit of all Americans.

In terms of flood insurance, we have American citizens in Puerto Rico—all American citizens—along with the people of Texas and Florida and California, because of the wildfires and recent floods, who desperately need additional help, and we should respond.

Just as an aside, one other proposal the President made on the campaign was for a really big infrastructure program, with investments up to \$1 trillion. He was going to do that in the first 100 days. Well, a year later, we are still waiting, but in that time, we have seen \$1.5 trillion being dedicated to tax cuts before anything else, and there is very little room left—given our fiscal situation—for the robust kinds of efforts he promised within his first 100 days.

The issue that has captured the imagination of so many is the issue of the Dreamers, as I mentioned before. The President decided he would remove protections for these individuals—as many as 800,000 of them—a few months ago, last September. He created a crisis that need not have been created.

We know the American people want these young people to get a chance to stay here. They are working. They are serving in the military. They are going to school. They are contributing to this community, and of his own volition, the President decided he was going to create a crisis. That crisis has now weighed heavily on us because, if we can't resolve this issue, there is a danger these young men and women could be immediately or very promptly removed from the country. We have

been talking about this for months, but there is no progress.

I was very impressed with Senator GRAHAM's testimony before the Judiciary Committee yesterday. As he noted, we thought last Tuesday we had a solution because, on Tuesday, the President was talking about love and comprehensive reform of our immigration laws and working together. In fact, he was flanked by Senator DURBIN on one side and Representative HOYER on the other side. That was Tuesday. Come Thursday, it seemed to be a different President—a different President in tone, a different President in terms of willingness to cooperate, a different President in terms of bipartisanship. We just hope that, before too long, the President from Tuesday returns because we don't want a shutdown. We want, in fact, a comprehensive solution to our problems.

When it comes to this particular issue of the Dreamers, as I have suggested, both Senator GRAHAM and Senator DURBIN have done a remarkable job working together in that good old-fashioned bipartisan way of finding a good middle ground in which we can provide some sense of security for the Dreamers. We can provide what the President wants: border security. We can think about a first step toward comprehensive immigration reform. That is the way we like to think this Senate, this House, and this government would operate. They have done their part, but they were met on Thursday with just unpredictable rejection and a tone that is not Presidential, but far from that. We have to get that job done, and I hope we can do that.

We have all heard the horror stories of these Dreamers. They have come in to visit us. They have talked about what they are doing. They have talked about how they want to continue to contribute to this country. Again, I think we have to do that for them, but also because they provide a significant economic contribution to this country.

The Center for American Progress has indicated that if DACA recipients lose their right to work lawfully, it could reduce our GDP by over \$433 billion over the next decade. That is going to be a blow. It would be \$60 million annually over this decade for my home State of Rhode Island. Not only is finding a solution the right thing to do, it is the smart thing to do in terms of our economic well-being as a nation.

It is still possible to break through this deadlock. "It is not over until it is over" is the famous quote. We still have time—but not much time—to provide for appropriate relief for the Dreamers, to provide funding for our national security—that is defense and nondefense funding—to raise the caps so we can deal with this and do it, hopefully, not just for a short period of time but for at least 2 years. I think another kick-the-can-down-the-road measure is going to be unacceptable. Another couple more days, even with an inducement here and there—a nod

at some of these policies that have not been actuated yet—I think that would be the wrong approach. I think we have to sit down and get it done.

This agenda has been the President's agenda, not the Democratic minority's agenda. That is what happens when you control the Presidency, the House, and the Senate; you set the agenda. Some argue we should have been talking about infrastructure in January—last January. Some argue we should have been talking about budget caps last January and have a situation where we would be passing budgets on time.

Some of the complaints of my colleagues—and I heard them—is it is not just the fact that the funding isn't sufficient, it is the uncertainty of the funding that affects our readiness in the military, that affects our ability in non-DOD functions to deal effectively and efficiently with problems that face Americans.

As I mentioned, this agenda has been an agenda that was preoccupied and just fixated on taking on ObamaCare, and that failed. Then it shifted not to infrastructure, not to our budget problems, not to other factors but to tax cuts, but to \$1.5 trillion in deficit-funded tax cuts.

Again, if you look at some of these military programs—for example, the whole reinvigoration of our nuclear posture, which is to be the subject of a nuclear posture deal, it has been estimated, over a decade or more, to cost in the vicinity of \$1 trillion.

I think people who are strong defense advocates can ask very sincerely, if we are going to borrow \$1.5 trillion, why don't we use it on military equipment that we know we have to improve? Why are we giving it disproportionately to the richest Americans? I think those are questions that are resolved by the President and the leadership in the Senate and the House.

We are here because I think most Americans want to get things done. As I suggested by my polling numbers from the Washington Post, they want overwhelmingly to see the Dreamers have a path to freedom. They want to see people in Texas, in Florida, Puerto Rico, and the Virgin Islands get the help they need because of a natural disaster. They want healthcare for children—the CHIP program. They want these children to be able to go to community health centers because that is where the vast majority of them go. They want to go ahead and ensure that these things are accomplished.

Now is the chance to govern, and the levers of the government are clearly in the hands of the Republican President, the Republican Senate, and the Republican House, and those levers should be moving for the American people.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEE. Madam President, I ask unanimous consent to be able to complete my remarks, notwithstanding the previous order.

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

Mr. LEE. Madam President, the Founding Fathers knew and understood well what it was like to live in a dangerous world. When America was founded, we were threatened by foreign adversaries. The military might of the United States was feeble compared to the great powers of that day. Yet the Founders insisted on a Constitution that would protect the civil liberties of the American people. They knew it was possible to defend the homeland and Americans' rights at the same time. It still is.

The War of Independence was fought in part because King George III abused general warrants that let his officers snoop through the papers and property of law-abiding subjects. The abuse of general warrants and the use of things like writs of assistance prompted the American people into action, representing that their fundamental liberties were at stake. That is part of what ushered in the American Revolution.

The Fourth Amendment to the Constitution was put in place specifically to protect these very kinds of liberties and to protect the American people against this very type of snooping. The Fourth Amendment does this by prohibiting unreasonable searches and seizures of Americans' persons and property. The very wording of the Fourth Amendment itself recognizes that this is part of what our security means. It is not just that we are protecting privacy; we are protecting privacy by protecting our security, to make sure that we are secure in our persons, our papers, houses, and effects.

The Fourth Amendment also requires search warrants to be limited in scope and to be based on evidence producing probable cause that a crime has been committed. Those warrants also have to be particularized so that they are not open-ended, so that they can't be applied to any and every circumstance.

Critics of the Fourth Amendment complain about it. They complain about it from time to time as if it were somehow an annoyance that has to be dealt with, ultimately circumvented. Some people refer to it even as something of a security threat in and of itself. This is wrong. Our Nation's history should itself be enough to convince us that the Fourth Amendment is no annoyance. It is an essential safeguard of our liberty in the face of a vast, powerful, and frequently overreaching government. Just think of how much more powerful the government has become in the age of supercomputers and the internet. The kinds of abuses endured by the founding generations will be repeated on an even greater scale if we are not vigilant in checking the power of government.

Last night, this body—the U.S. Senate—voted to close debate on a bill to reauthorize section 702 of the Foreign Intelligence Surveillance Act. This program may sound dry. It may sound inconsequential or even uncontroversial to many people's lives. But supporters and critics who are familiar with it often agree that it is anything but.

FISA's section 702 authorizes the intelligence community to spy on suspected foreign terrorists. Not many people are troubled by that aspiration. The intelligence-gathering that this authorizes is a valuable task, and it is one that helps protect the homeland from bona fide threats from outside the United States. However, FISA 702 also allows the collection of incidental intelligence about American citizens who communicate with foreign suspects. Once the intelligence community has collected this incidental information about Americans, domestic law enforcement can access the information for their own investigations without first obtaining a search warrant, as contemplated under our constitutional structure. In other words, FISA 702 opened a backdoor to government spying on American citizens. This incidental spying is a different matter altogether, and it does implicate the Fourth Amendment—certainly the spirit of the Fourth Amendment if not also the letter thereof.

It is profoundly worrying that the government maintains vast collections of information about American citizens, no matter how that information is collected, incidentally or intentionally. It is likewise worrying that the government cannot or will not say, specify, list exactly how many Americans have been subjected to government snooping under this provision.

Surveillance programs like this one may be implemented with the best of intentions—and I am willing to assume for purposes of this discussion that they are with the best of intentions here—but they themselves provide the raw material that overzealous bureaucrats can use to snoop on anyone the government doesn't like.

When we speak of the United States, when we speak of our government agencies, we are not speaking of an omniscient force, something that can only act for benevolent reasons. Our governments, by necessity, are run by fallible, mortal individuals. No matter how patriotic might be the goals underlying this law or the agencies that implement it, at the end of the day, a human being is in control of each and every action taken under this law.

So maybe, you might say, the subjects of this type of government surveillance are in fact overwhelmingly threats to the public. But can you guarantee that is the case? And if it is the case today, can you guarantee it will always be the case? Can you be so sure that tomorrow or the next day or the next year or in a few years from now or decades from now, that will also

be the case? What if the next time, the subject is a critic of the government, or perhaps the subject is a petty political enemy of someone charged with implementing this statute?

History cannot reassure us that this or any other surveillance power will always be used for good. It is not difficult, for that matter, to fathom hypothetical scenarios in which this could come about. Imagine, for example, a political candidate disliked by someone with authority to do a so-called backdoor search of a section 702 database. Imagine that someone with that authority dislikes that political candidate and decides to go looking for dirt on that political candidate, finds dirt on that political candidate, and then perhaps decides to leak that same information—unlawfully accessed by this individual acting pursuant to this program. This might be against all sorts of department protocols. It might be against the policy of those same agencies charged with administering this statute. But the fact that we can't rule it out, the fact that it is not clear that this couldn't happen, ought to be concerning to every single one of us.

The only check on this frightening power is the FISA Court, which rules in near total obscurity about what the government is allowed to collect. I say the FISA Court is the only check because Congress certainly isn't acting like a credible check on this authority.

Not long ago, the House handed us a bill that would reauthorize FISA section 702 for another 6 years, and I am sorry to report that many of my colleagues in the Senate are forcing this bill through as is, in the same condition as we received it from the House of Representatives, without a single change from the bill the House sent us, without any amendments to protect Americans against warrantless, backdoor searches by the government about U.S. citizens on U.S. soil.

I believe that Americans' Fourth Amendment rights are worth much more due diligence than that. Instead of simply rubberstamping FISA 702 through the bill that the House sent us, this body could have strengthened it by voting against cloture, which would have opened up the bill for amendments.

To be clear, a vote against cloture would not have been a vote against FISA section 702. It would not have ended the program or jeopardized our Nation's ability to spy on suspected foreign terrorists. In fact, as far as I know, not one of the Members of this body who voted against cloture would even support such an outcome. Not one of us, as far as I am aware, would like to see FISA end. What we would like to see is for amendments to at least be considered, to be debated, to be discussed by the people's elected representatives in this body to make sure that we have achieved the proper balance between the power the government desires and the security and privacy of the American people. A vote

against cloture would have allowed this body to improve FISA section 702 through a legitimate amendment process—one that we, unfortunately, are being denied this week.

You see, one of the reasons why it is important, as we consider this, to allow for amendments is that this law comes up for reauthorization only so often. I think the American people legitimately would expect that when it comes up, we would actually have an open, honest debate and discussion; that we would do more than simply rubberstamp what the other Chamber has already passed; that we would ask some difficult but important questions about the rights of the American people relative to this program.

Had we voted down cloture, had we decided not to vote to end debate, this would have given us an opportunity to protect Americans' safety and their constitutional rights, not one or the other. It wouldn't have put us in this awful Hobson's choice scenario, where you have to choose to protect one or the other.

What, you might ask, may some of these possible changes to section 702 of the Foreign Intelligence Surveillance Act have looked like? They would look a lot like the provisions contained in the proposed USA Liberty Act, which Senator LEAHY and I introduced last year. The USA Liberty Act would tighten this standard the government must meet in order to collect and access information on you, pursuant to section 702. This safeguard, and any of the other provisions contained in the USA Liberty Act, would be worthy additions to FISA 702.

These changes would not restore respect for the Fourth Amendment overnight. I believe it will take many more battles with the entrenched interests within government to achieve that, but they would be steps in the right direction.

If history is our guide, any unlimited, unaccountable power we hand to the government ultimately will be used against the people. In FISA section 702, the government has a vast grant of power—a digital-aged general warrant—to hoard untold terabytes of information about American citizens.

I hope we can work together in the coming months to improve this surveillance program and vindicate what the Founders so clearly knew; that our safety does not have to come at the expense of our rights; that our security and our privacy are not at odds with one another but that our privacy and our security are one and the same. Our security is part of our privacy and vice versa. We can protect both. We can walk and chew gum at the same time. We can honor the Constitution and protect the rights of the individual while simultaneously protecting the security of the greatest civilization the world has ever known. We can do better, and we must.

I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:47 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

## RAPID DNA ACT OF 2017—Continued

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I and the Acting President pro tempore have been on the Select Intelligence Committee for a considerable period of time—I much longer than he. However, I think we are both well experienced with the subject, and I would like to make a few comments on section 702. For 6 years, I was chairman of the committee, and the ranking member for 2 years. What I came to see is that, in my view, there was no more significant content collection program than section 702, and I want to give a couple of examples and explain why I think it is so important that 702 be reauthorized.

A little more than a year ago, on December 31 of last year, approximately 500 people gathered in a popular Turkish nightclub on the banks of the Bosphorus to celebrate New Year's Eve. Tragically, shortly after midnight, a gunman entered that club and opened fire, killing 39 innocent civilians and wounding 69 others. At least 16 of those killed were foreign nationals, including an American who was shot in the hip. Many people inside reportedly jumped into the water in an attempt to protect themselves from the gunfire. After committing this act, the gunman changed his clothes and fled the scene.

Almost immediately, Turkish law enforcement and American intelligence officials began cooperation to identify and locate the shooter. Part of that effort included intelligence collection under section 702 of the Foreign Intelligence Surveillance Act. The information derived from the 702 collection ultimately led the police to an apartment in the Esenyurt district neighborhood of Istanbul. There, law enforcement arrested an Uzbek national, named Abdulkadir Masharipov, at a friend's apartment, along with firearms, ammunition, drones, and over \$200,000 in cash.

Thanks to the work of Turkish and American law enforcement and intelligence agencies, just 16 days after this horrific attack, police had the prime suspect in custody. Mr. Masharipov is currently awaiting trial in Turkey.

Section 702 of FISA is the most important foreign content collection program that we have. It allows the government to quickly and efficiently collect phone call and email content from non-U.S. persons who are located outside of the United States. Information collected under section 702 informs nearly every component of our Nation's national security and foreign policy.

Section 702 was used by the CIA to alert a partner nation to the presence of an al-Qaida operative who was turning into a cooperating source. Section 702 was used to intercept al-Qaida communications about a U.S. person seeking instructions on how to make explosives in the United States. It was also used to understand proliferation networks used by adversary nations to evade sanctions, including military communications equipment.

In 2014 the Privacy and Civil Liberties Oversight Board, or what we call PCLOB, reported: "Over a quarter of the NSA's reports concerning international terrorism include information based in whole or in part on section 702 collection, and this percentage has increased every year since the statute was enacted."

The law expressly prohibits the targeting of U.S. persons or the targeting of persons located in the United States. Section 702 is a foreign content collection program.

I also believe it is equally important that reauthorization include reforms to ensure that the program continues to operate consistently with the statute's original intent and our Constitution.

Perhaps the most important among these reforms is the issue of U.S. person queries. U.S. person queries refer to the process by which the government searches the 702 database for the content of U.S. persons' communications.

U.S. persons cannot be targeted under section 702, but they can be collected incidentally if the individual is communicating with a non-U.S. person who is located overseas and is targeted under section 702. If an American's communications are collected incidentally, they are added to the 702 database. The government can later search, or query, that database for any American and gain access to the contents of any phone calls or emails that may have been swept up in the section 702 collection. Each of these queries results in the government's accessing the contents of a U.S. person's communications without ever going before a judge or securing a warrant.

The Fourth Amendment requires the government to obtain a warrant based on probable cause before accessing those communications, and the Supreme Court has been clear: Americans have a right to privacy in the content of their phone calls and emails. The same standard should apply to communications incidentally collected under section 702.

During the Senate Intelligence Committee's markup of section 702, I offered an amendment with my colleague from California, Senator HARRIS, that would require the government to obtain a warrant from the Foreign Intelligence Surveillance Court prior to accessing the content of any U.S. person's communications collected under section 702. Unfortunately, our amendment did not succeed in the committee.