

year 2016 and fiscal year 2033, it is only increasing it by 2.1 percent, which isn't even inflation.

At that level, we are not carrying out the recommendation that came from the Commission and all those individuals who agree with it—the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and everyone else knowledgeable in the field. So we have our work cut out for us.

Mr. KYL. I couldn't agree with the chairman more. I applaud the chairman and the chairman of the House Armed Services Committee for going to the President, along with Secretary of Defense Mattis, and talking about the need to continue with his defense modernization, noting the fact that the improvements the Senator has made in the last 2 years have not rebuilt the military or even begun to close the gap. It has stanchoned the flow of blood. It has been like a tourniquet on the arm to prevent any more loss of blood for the military.

The Senator is absolutely right. What the President then said after his meeting with the Senator, that he thought a number somewhere around \$750 billion was a more accurate number, is exactly correct. In fact, I think it would be a little more than \$750 billion to represent the 5 percent or 3 percent above the rate of inflation. I will have to do the math when I sit down here.

The point is, some people think the last 2 years, because you all were very effective—this is before I came back to the Senate—in stanchoning that flow of blood, that, therefore, the fight is over. Nothing could be further from the truth. Really, a 13- to 15-year program to rebuild our military has just begun.

Mr. INHOFE. I have to say, the figure we are talking about right now came right out of this book. You guys did a great job. My hope is, you will continue to serve in some capacity because we desperately need you. It has been great to have you back, for however brief the time. We accomplished a lot during that brief time.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I ask unanimous consent to speak for 10 minutes.

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

FIRST STEP ACT

Mr. MENENDEZ. Mr. President, I rise in support of the FIRST STEP Act. This legislation, as the title says, is an important first step toward desperately needed criminal justice reform.

I thank Senators DURBIN, GRASSLEY, and LEE, as well as my good friend and colleague, Senator CORY BOOKER, for advancing this bipartisan compromise. I want to particularly recognize the junior Senator from New Jersey, who has been relentless in his efforts to bring moral urgency to this issue, and I think we can thank Senator BOOKER for his passion and his devotion to justice.

The need for criminal justice reform was an issue constituents consistently and frequently raised with me as I crisscrossed New Jersey over the past year. From Woodbury to Paterson, to Newark, and everywhere in between, I heard from faith leaders calling for solutions to a mass incarceration crisis that has disproportionately torn apart communities of color. Indeed, the NAACP found that, nationally, African Americans and Hispanics make up approximately 32 percent of the U.S. population, but they represented 56 percent of all incarcerated people in 2015.

I also heard from young people pushing for drug policy reform so fewer students charged with marijuana offenses lose access to Federal financial aid.

I met with leaders like former New Jersey Governor Jim McGreevey, whose work with New Jersey Reentry Corporation helps formerly incarcerated individuals—especially those struggling with addiction—find jobs and avoid ending up back in prison.

I met with African-American law enforcement organizations, like the Bronze Shields, about their efforts to build positive relationships in their communities and address challenges like racial profiling and uneven enforcement.

The FIRST STEP Act will not solve all of these problems—far from it. I certainly would have liked to see more concrete reforms to Federal minimum mandatory sentences. However, I am pleased to support a bill that reverses some of the most detrimental effects of Federal mandatory minimum sentences.

As a longtime proponent of the Second Chance Act, I am also glad to see provisions reauthorized under this bill that will give nonviolent, low-risk offenders and their families greater hope for a brighter future. Under the FIRST STEP Act, more Americans in the Federal prison system will finally get their second chance.

While most offenders are incarcerated at the State level, we know Federal mandatory minimums for drug offenses are among the harshest in the Nation. According to The Sentencing Project, half of the U.S. Federal prison population is serving time for a drug offense, the vast majority of them non-violent.

Under this legislation, low-risk offenders will be able to earn credit by completing anti-recidivism programs that help better prepare them for life after prison. Inmates can then apply these credits for early placement in a halfway house, home confinement, or other types of early release. We know that when prisoners are equipped with the right tools and resources, they are better able to reintegrate into society and avoid old behaviors that could result in them winding up back behind bars. That is not only good for them, it is good for their families and good for their communities.

These provisions are important back-end reforms, but I will not stop calling

for greater reforms on the front end—the enforcement side of the equation. This is a serious problem in New Jersey. In July 2017, The Sentencing Project reported that racial disparities in New Jersey's marijuana arrests were at an alltime high. In 2013, African Americans were arrested for marijuana possession three times as often as their White counterparts, despite marijuana use being similar among racial groups.

The disparities extend far beyond arrest rates. Recently, a 6-month investigation by NJ Advance Media found “hard evidence of racial disparities in police use of force across New Jersey.” The data revealed African Americans are three times likelier to face some type of police force compared to Whites. Even more troubling, African-American children faced a disproportionate amount of force. From 2012 through 2016, of the more than 4,600 uses of force against people under the age of 18, slightly more than half were African American. Yet African-American children account for only 14.5 percent of New Jersey's child population.

I don't highlight these statistics to denigrate our police force because the men and women who serve in law enforcement put their lives on the line every day to protect our communities, and their bravery will always have my respect, support, and admiration. I do highlight these statistics because they reveal a larger need for greater front-end criminal justice, sentencing, and police reforms that ultimately share our goal of building safe and thriving communities.

Passing the FIRST STEP Act is just that—a first step. It cannot be the only step. We have so much more work to do to fix a broken criminal justice system that leaves too many Americans behind.

The FIRST STEP Act does not address structural racism and racial disparities in our criminal justice system, nor does it completely alleviate some of the draconian sentences still in place for drug offenses.

What this legislation will do is to make a positive difference in the lives of thousands of Federal inmates working to turn their lives around and earn a second chance. I urge my colleagues to support this bill. I have always believed that the Federal policies we set can have a ripple effect across the Nation. May the passage of the FIRST STEP Act by Congress spur States across America to take additional steps forward—steps that, together, may advance our Nation's long march for equality and justice under the law.

Mr. President, 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 12:46, recessed until 2:15 pm and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

SAVE OUR SEAS ACT OF 2017—
Continued

The PRESIDING OFFICER. The Senator from Colorado.

Mr. GARDNER. Thank you, Mr. President.

I ask unanimous consent to set aside the pending amendment and call up amendment No. 4123.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa.

Mr. GRASSLEY. Reserving the right to object, I would like to explain my—make a point before I object.

This amendment is inconsistent with current Federal law and would allow States the right to break existing law. If there is an attempt to legalize across the country, we should have that debate and let the Congress decide the issue instead of creating a back door to legalization.

Furthermore, the amendment would allow financial institutions to bank marijuana distributors. This is inappropriate to consider in the context of a criminal justice reform bill. Criminal justice is not a vehicle through which we create reform for banks to create more business.

The Senator from Colorado is very much an advocate for the people in his State. I understand that. I respect his position. He works hard on this, and he may be ahead of the time when there will be a real debate on this, and maybe there will be, at that point, an opportunity to consider his approach as something lesser than the legalization of marijuana generally.

For those reasons, I will object to what the Senator from Colorado is trying to accomplish.

The PRESIDING OFFICER. Objection is heard.

The Senator from Colorado.

Mr. GARDNER. I thank the Presiding Officer and Chairman GRASSLEY. After much debate, disagreement, and compromise, this week the Senate is going to be taking up a bill that he has worked very hard to see through to this day, a criminal justice reform package.

The package that is on the floor today that we are debating and talking about amending shows the American people that bipartisanship remains alive in the U.S. Senate. Leaders on both sides of the aisle, as well as the White House, should be commended for their admirable and persistent cooperation and determination on this legislation.

I believe the package's goals are noble. It is right to help those who have paid their debt to reenter society with the best possible chance to be productive contributors. It is right to take steps to ensure that sentences are fair and appropriately tailored to the defendant. It is right to calibrate the way we treat those in custody based on the risk they pose to society.

But being from Colorado, it is hard to think about Federal criminal justice reform without thinking about the big-

gest problem the Federal law creates for Colorado—the refusal to respect the will of Coloradans when it comes to their decision on marijuana. That is exactly what I am trying to do, is to create a debate so that we can address the conflict between State and Federal law.

Every day, Coloradans of good faith follow Colorado law to a T. Yet they are still criminals in the eyes of the Federal Government. Cancer patients who are using medical marijuana to control their pain and veterans who are using marijuana to alleviate the post-traumatic stress they suffer because they served their country—Federal law says they are criminals, even though they are perfectly legal within their rights under State law. The attempt we are making today is to fix the inconsistency between Federal and State law, to begin the debate, because the people don't think that they are criminals when they follow the law in Colorado. So we should change Federal law.

This disconnect doesn't affect just the industry's patrons or even the growers or retailers, for that matter; it also makes criminals of those outside of the industry. As we are talking about criminal sentencing reform, we should be thinking about plumbers, electricians, bankers, landlords, real estate service providers, employment and advertising agencies, insurance companies, and HR services. All of the everyday businesses that interact with the marijuana industry—like they do any other part of our economy—are affected by Federal law too. That is because when they take money from a marijuana business, Federal law considers them money launderers, putting them at risk for both criminal liability and civil asset forfeiture.

That means the mother who moved to Colorado to treat her child who has epileptic conditions—severe epilepsy, thousands of seizures a month—moved to Colorado to treat her child with CBD oil, derived from the work we are doing on marijuana, which reduces those seizures from 1,000 a month to a few—6, 7, 8, or a dozen a month—that is illegal in the eyes of the Federal Government, putting her at risk for criminal liability and civil asset forfeiture.

The disconnect forces Colorado's \$1.5 billion market back into the pseudoshadows, where business is in hard-to-track cash—\$1.5 billion in cash—inviting dangerous robberies and hindering law enforcement efforts to ensure that legal marijuana sales benefit legitimate businesses rather than illicit cartels. This is an effort to bring that \$1.5 billion in Colorado alone out of those shadows. It also means that researchers can't test marijuana for medical efficacy to help better understand impairment, because those researchers fear the loss of Federal funding.

All of this flies in the face of what the Colorado people have chosen to do for themselves. Indeed, it flies in the face of the 33 States that have legalized some form of marijuana, including 10

that allow regulated adult use. This year alone, Oklahoma, Missouri, and Utah have passed laws establishing medical marijuana programs, and Michigan and Vermont have passed laws permitting regulated adult use. Wisconsin voters in 16 counties overwhelmingly passed advisory referenda supporting legalization.

Here is the chart. Look at this chart. Green on this chart represents the States that have legalized some form of marijuana, whether it is recreational, whether it is medical, whether it is CBD, or some kind of hemp product, cannabis. Look at the green on this map. Over 95 percent of the population in this country live in a State that have made legalization happen in some way, shape, or form.

Let's go to the list of the States. It is almost every State. Here are the States allowing some form of marijuana: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida—it goes on and on.

It is easier to say the three States that have not allowed it: Idaho, Nebraska, and South Dakota. They are the only three States that have not.

Recent polling from Quinnipiac shows that more than 60 percent of the American people support legalized marijuana, and 93 percent support medical marijuana. The American people have made up their minds. This is happening. Let's be clear. This isn't just happening in blue States, like California or Massachusetts, or purple States, like Colorado. It is happening in bold, deep red States like Utah, Oklahoma, and West Virginia. It is happening in swing States like Florida, Ohio, Pennsylvania, Michigan, and Missouri. The bedrock principle of our government expressed in the Declaration of Independence is that governments derive their just powers from the consent of the government. As the Federal Government continues to ignore the will of the people, the people lose respect for the law. The Congress must respond because, one way or the other, the people of this country are having their say.

That is why Senator WARREN and I are offering the STATES Act as an amendment to this criminal justice package before the Senate. The act is a simple, straightforward plan. Within certain basic Federal guardrails, conduct and compliance with State marijuana law will not violate the Controlled Substances Act. This legislation is the embodiment of federalism our Founders envisioned. It allows each State to move—if at all—at their own pace. It lets States like Colorado be the laboratory of democracy that American people have come to expect. But most importantly, it lets Colorado be Colorado, South Carolina be South Carolina, and Florida be Florida—and they all will have Federal prosecutors backing up whatever decision they make with respect to this decision.

The people of Colorado have made their decision already. I did not vote