

with me to work this out. My congratulations to Secretary Eric Fanning—Army Secretary Eric Fanning.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I again thank my old friend from Kansas for his agreement to move forward. I look forward to continuing our long, many years' effort together to keep this Nation safe.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. MCCAIN. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 477 only, with no other executive business in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The bill clerk read the nomination of Eric K. Fanning, of the District of Columbia, to be Secretary of the Army.

Thereupon, the Senate proceeded to consider the nomination.

Mr. MCCAIN. Madam President, I know of no further debate on the nomination.

The PRESIDING OFFICER. Is there any further debate?

Hearing none, the question is, Will the Senate advise and consent to the Fanning nomination?

The nomination was confirmed.

Mr. MCCAIN. Madam President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2016—Continued

AMENDMENT NO. 3897

Mr. BROWN. Madam President, I rise today to speak in opposition to the Lee amendment No. 3897. I wish to take a

moment to thank Senator COLLINS and Senator JACK REED for their terrific work on this bill and for how they teamed up to manage this bill in pretty much the right way.

With this legislation, we are making critical investments in our transportation, housing, and community development programs. In this country today, one in four families who rent spend more than half of their income on housing. We have been taught from young adulthood on that you shouldn't spend more than 25, 30, or 35 percent at the most on house payments or rent, yet one-fourth of Americans are spending more than half of their income on housing.

I recently read the book "Evicted" by Matthew Desmond. In that book, one renter was quoted as saying that when her paycheck came in, her rent eats first. She had kids who were hungry. She had bus tokens to buy so she could get to work. With all of the challenges she had, she said: My rent eats first. We know what that means.

In housing, whether it is in rural Maine or whether it is in urban or rural Ohio, we know that rental prices have continued to go up and up. Evictions are so much more common than they were a decade or, especially, two decades ago. That has to change, and it makes clear why we need to maintain our existing affordable housing resources.

This bill focuses on improving the quality of federally assisted houses and removing lead paint hazards from homes. We know the effect that has on us. We learned from Flint about water, but we know an even bigger problem is lead in paint. In 2007, in the city that I call home, the city of Cleveland—the ZIP Code I live in, 44105—there were more foreclosures in my ZIP Code than any ZIP Code in the United States. We also know in cities like Cleveland and rural areas like Appalachia, where most of the housing stock is World War II or older, almost all of that housing stock has toxic levels of lead paint.

The bill pays particular attention to transit safety. The Banking Committee oversees transit. Senator MIKULSKI has worked with Senator SHELBY and me, as well as our colleagues representing the local area—Senators WARNER, CARDIN, and KAINE—to make sure the FTA has the resources needed to oversee the Washington Metro. It is something we have neglected for decades.

I wish to thank my colleagues for working with us to ensure that young foster care alumni don't have to choose between getting the education they need to be self-sufficient and having a roof over their heads. I wish more funds were available for these important investments—particularly, additional funding to address family homelessness. But I thank my colleagues for their work within the subcommittee's funding constraints and their attention to these critical issues. I especially thank the chair, SUSAN COLLINS, for that.

Unfortunately, Senator LEE's amendment will undermine some of the good we are doing with this legislation. It will prohibit the Department of Housing and Urban Development from carrying out a key component of the Fair Housing Act of 1968. When Congress passed that bill in the wake of the assassination of Martin Luther King, Jr., it made housing discrimination illegal in every State in the Nation for the first time.

For generations, redlining, restrictive covenants, and outright discrimination kept families of color locked out of entire neighborhoods and created segregated communities that linger to this day. These were tools of racial oppression as well as economic oppression, and in far too many cases, they went hand in hand. The Fair Housing Act made these despicable practices illegal everywhere.

Congress included another important component in the Fair Housing Act: a requirement that HUD and its grantees administer their federal housing and urban development grants in a way that would affirmatively further fair housing. State and local governments and public housing authorities were required to use their Federal funds in ways that would reverse, rather than reinforce, segregation in these communities. But today, the outlines of decades-old discrimination are still too visible.

I listened to a preacher on Martin Luther King Day on a cold Cleveland January morning 2½ years ago. He said something we all know but don't think enough about: Life expectancy is connected to your ZIP Code. Whether you grow up on the east side of Cleveland, whether you grow up in a wealthy suburb, whether you grow up in Appalachia, whether you grow up in a prosperous small town, your ZIP Code determines whether you have access to good health care, to quality education, to social support necessary to succeed. When where you live matters this much, we all have a moral obligation to ensure that families can live in the neighborhoods of their choice and to ensure that communities are creating opportunity in every ZIP Code. Unfortunately, in the 50 years since our country passed the Fair Housing Act, HUD has not provided enough direction to help communities meet this goal.

A 2010 GAO report recommended that HUD take action to improve its process for meeting its obligations, including three things: establishing standards and a format for grantees to follow, requiring grantees to establish timeframes for implementing their plans, and requiring grantees to submit their analyses to HUD for review.

HUD developed a new rule that will finally help local governments across the country support and foster fair housing policies that create vibrant and integrated communities. This rule was developed through a 2-year public process. Twelve of my colleagues and I urged Secretary Castro to develop a

strong rule after considering comments from stakeholders.

Senator LEE's amendment would stop HUD from responding to those GAO recommendations. The updated rule will give communities the clarity and the tools they need to meet their obligations and fulfill this duty that this Senate has supported in a bipartisan way for going on five decades now.

Some of the questions communities will ask during these assessments may demand that they think in new ways about how to create housing opportunities for all the residents, regardless of race, religion, disability, or the size of their families. These are the types of questions this body told the country to ask when it enacted the Fair Housing Act in 1968.

We need to invest Federal resources in ways that provide access to opportunity to all citizens in every ZIP Code.

I urge my colleagues to vote no on the Lee amendment.

#### INVICTUS GAMES

Madam President, last week athletes from around the world traveled to Orlando to compete in the second Invictus Games. Like all athletes, they participate for many reasons—camaraderie, personal discipline, the joy of the game. But the Invictus competitors are so much more: They are veterans who fought for our country and our allies and were wounded or suffered mental injuries in service to a cause greater than themselves.

The games were founded in 2014 by England's Prince Harry to bring Active-Duty servicemembers and veterans together to compete in an international sporting event and to recognize their achievements. These warrior athletes have already given so much for our country. They have seen the horrors of combat, spent months and years away from their families, and suffered injuries, both visible and not so visible. They have been changed forever by the realities of war but, as Invictus shows, they have not been defeated.

The name of the games comes from the poem of the same name by the 19th century British poet William Ernest Henley. "Invictus" means "unconquered."

On a personal note, "Invictus" was my father's favorite poem, which we shared at his funeral. I became even more interested in these games because it means "unconquered."

Madam President, I ask unanimous consent to have printed in the RECORD the poem "Invictus" by William Ernest Henley.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"INVICTUS"

(By William Ernest Henley)

Out of the night that covers me,  
Black as the pit from pole to pole,  
I thank whatever gods may be  
For my unconquerable soul.

In the fell clutch of circumstance  
I have not winced nor cried aloud.  
Under the bludgeonings of chance  
My head is bloody, but unbowed.

Beyond this place of wrath and tears  
Looms but the Horror of the shade,  
And yet the menace of the years  
Finds and shall find me unafraid.

It matters not how strait the gate,  
How charged with punishments the scroll,  
I am the master of my fate,  
I am the captain of my soul.

Mr. BROWN. Madam President, the words of "Invictus" have inspired men and women for generations, and the spirit is alive in the athletes who represented their countries in Orlando.

Three people from my State competed on the U.S. team. Army CPT Kelly Elmlinger is a mother, cancer survivor, and fierce competitor who grew up in Attica in Seneca County, which is in my part of the State. She brought home the gold for our country in the women's 400-meter dash.

Team USA included Brian McPherson, a Marine Corps sergeant from Nashport, just east of Columbus. Sergeant McPherson has battled a traumatic brain injury sustained while deployed in Iraq when a suicide bomber walked into his unit. He competed in track and field and cycle competitions. He said:

I am a son, brother, uncle, professional, Marine, and athlete who proudly stands before you after being ravaged by war. I was and am changed from these events but they lead me to what I now consider a greater path.

Those times have taught me much about myself, while giving me the additional skills to leave the Marines and integrate back into society.

Competitions like this have been so important to that journey.

He said:

Adaptive sports gave me the strength to be an example for fellow servicemembers, civilians, and myself. I learned of a passion I didn't know existed deep within me.

Sports have given me an outlet and time to sort through my thoughts and emotions.

Lastly, Stephen Miller, a retired Navy officer from Cleveland, competed in indoor rowing in Orlando. He said:

Training helps to remind me that I am part of a team and family. I get to share the experiences, recovery and memories not only with US athletes, but also with our allies and comrades.

He, Sergeant McPherson, Captain Elmlinger, and all of the Invictus competitors embody William Ernest Henley's words:

It matters not how strait the gate,  
How charged with punishments the scroll,  
I am the master of my fate,  
I am the captain of my soul.

These athletes have mastered fate on the battlefield, the sports field, and have overcome more trials than almost any of us could imagine. Their perseverance serves as a testament to the power of the human spirit. It isn't sympathy or charity that we owe these heroes; we owe them gratitude, respect, and the opportunity to live a life that befits their service and sacrifice for our great Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

#### AMENDMENT NO. 3900, AS MODIFIED

Mr. LEAHY. Mr. President, I want to speak in support of the Blunt-Murray-Graham-Leahy amendment, which provides \$1.1 billion in emergency funding to combat the Zika virus.

The map of the United States beside me beside me shows the Centers for Disease Control's estimate of the range of the two types of mosquito that may spread Zika. As you can see, this public health emergency is not in some far-off land. It could easily end up in the backyards of tens of millions of Americans. Before I discuss the pending bill I want to mention that earlier this afternoon I voted for the Nelson-Rubio Zika supplemental, which would have provided the full \$1.9 billion requested by the President months ago.

It is mystifying to me that Republicans voted to defeat that amendment, considering that Zika is spreading faster and in more ways than predicted when the President first requested those funds. The excuse we have heard for months, particularly from House Republican leaders, is that they don't have enough information about the proposed uses of the funds.

Have they bothered to attend any of the briefings, or if briefings weren't enough, to pick up the phone and call the head of the CDC, or the Director of the National Institute of Health, or any of the other experts who have been sounding alarm bells since last year?

In a little over a year the Zika virus has spread from Brazil to almost every country and territory in this hemisphere. There is no question that it is spreading faster and is more dangerous than was anticipated just a few months ago.

As this map shows, more than half the continental United States, including my own state of Vermont, is now projected to be within the range of Zika carrying mosquitos. The virus can have devastating consequences for many of those who become infected, particularly children. We need to act, and if there is one area where politicians should not second guess the medical experts, it is how to respond to public health emergencies.

So what did the House of Representatives do? First, they don't treat the Zika crisis as an emergency, even though it has spread to 36 countries and territories in this hemisphere and has been declared a public health emergency by the World Health Organization.

The House bill, introduced yesterday, would cut the amount requested by more than two-thirds, rob from other programs like the funds to combat Ebola, and limit the availability of Zika funds to the remaining 4 months of this fiscal year. More than half a billion dollars in Ebola funds have already been reprogrammed to combat Zika because it would have been irresponsible for the administration to wait any longer while Congress

failed to act as the mosquitoes came north. But Ebola remains a deadly threat. Cases of Ebola continue to be confirmed in West Africa, and we have seen how one Ebola case today can become a dozen cases tomorrow and a hundred cases the next day. How quickly people here forget the fear that gripped this country after a single Ebola-related death in Texas 2 years ago. The funds we appropriated to combat Ebola are being put to good use, including to strengthen the capacity of African countries to respond to future outbreaks of Ebola or something even worse.

The emergency funding in this bill includes \$258 million for the Department of State and USAID to combat Zika in Latin America and the Caribbean. These funds will support efforts to control the spread of Zika and other insect-borne diseases, including to protect maternal health, expand public education on prevention, and encourage private sector research for the development of vaccines and diagnostics. These funds will provide contributions to international organizations, including the World Health Organization and the Pan American Health Organization, to reduce the impact of the disease on infants and their families, and accelerate diagnosis. Funds are also included for Department of State and USAID operations to implement programs in the field, and provide medical support for U.S. citizens, State Department, USAID, and other Federal Government employees stationed overseas.

If the Zika virus is not controlled in Latin America and the Caribbean, a year from now, it will likely be worse than projected and more costly to control. And if we continue to rob Ebola funds, which are being used for the purposes Congress intended, we simply shift the risk from one life-threatening disease to another. That makes no sense at all.

If there is one thing on which Republicans and Democrats, House and Senate, should agree it is doing whatever is necessary to protect the American people from dangerous, contagious diseases. It is past time for us to act, and I urge all Senators to support the Blunt-Murray-Graham-Leahy amendment.

The PRESIDING OFFICER (Mr. GARDNER). The Senator from New Hampshire.

#### NATIONAL POLICE WEEK

Ms. AYOTTE. Mr. President, I rise today in recognition of National Police Week to honor and thank the men and women in uniform, law enforcement officers in our great State of New Hampshire who do a phenomenal job every single day keeping us safe.

When I worked as attorney general, I was honored to work directly with our law enforcement officers at every level in our State. We have the very finest law enforcement officers in the State of New Hampshire. During this week, I want to thank them for every single thing they have done under the dif-

ficult circumstances they face every day in order to make sure our communities are safe in the State of New Hampshire.

Tragically, just last week we had an example of the dangers our police officers face every single day when two Manchester police officers were shot in the line of duty early Friday morning.

Early Friday morning, Officer Ryan Hardy encountered a situation on Second Street, where he noticed the description of someone who had robbed a gas station the night before. As he was approaching this individual, Officer Hardy was shot multiple times at close range. The individual fled, and then this suspect fired into a group of police officers, and when he did that, he unfortunately also shot Officer Matthew O'Connor in the leg. Both of these police officers acted with great heroism, tenacity, and courage in the work they do every single day on the streets of Manchester. All of the police officers who responded that day did a phenomenal job, but that is an example of what our police officers are facing on a daily basis. They don't know whether the next stop they make of someone is going to go bad. Unfortunately, early on Friday morning, it did go bad.

We are so grateful for their service, for the service of Officer Hardy and the service of Officer O'Connor. We are grateful and blessed that despite significant injuries, they are doing OK and they did not get killed in the line of duty.

I just want to say to them, I want to say to the Manchester Police Department, and I want to say to their wives, Amanda and Elise—because families serve too. We worry about our police officers, but I know from having served as attorney general of New Hampshire that every time we are home on Thanksgiving or we are home on Christmas or we are home on some other holiday or great occasion, guess what our police officers are out doing. They are out patrolling our streets and our highways, keeping us safe, making sure we can enjoy that moment with our families. But their families worry. They worry when they are out: Is my loved one going to come home?

So I say to the families of our law enforcement officers as we stand here during National Police Week: Thank you. Thank you for what you do in allowing your loved ones to serve and for supporting our law enforcement officers because families serve too.

We are so grateful for what Officer Hardy and Officer O'Connor did on that early Friday morning, and we are grateful to all of the officers who responded to that call. I am grateful they are doing well in their recovery. We wish them the very best. They continue to be in my prayers and in my family's prayers for a speedy recovery. All of the police officers in our State are in my prayers.

When I was attorney general, two of the most difficult moments I had were giving a eulogy at the funerals of two

police officers who were killed in the line of duty during my time as Attorney General. One of them, Officer Bruce McKay, had served the Franconia Police Department for 12 years, and he was brutally murdered in 2007 during a traffic stop. The other police officer was Officer Michael Briggs. In fact, on Sunday I am going to the dedication of a community center in Manchester in honor of Officer Michael Briggs.

It is hard to believe it has been 10 years since he was killed in the line of duty, but the fact that they are naming a community center in his honor there in the center of Manchester, where he helped so many young people and so many people in how he served the people of Manchester, is a testament to the kind of person he was.

I got to know the family of Officer Michael Briggs very closely, including his parents Lee and Maryann and his wife Laura and his sons, Brian and Mitchell. I want them to know today—I know it has been almost 10 years, but I will never forget—and we will never forget—their sacrifice and certainly what Officer Michael Briggs did for the State of New Hampshire, his heroism.

In fact, before he served as a Manchester police officer—as I think about coming toward the 10th anniversary of his death—before he served as a police officer, he served as a marine, serving our country in the line of duty. He served as a corrections officer also and did an incredible job. In fact, he received awards for saving people's lives, running into burning buildings to save people in the line of duty. I will never forget that he saved the life of the individual who murdered him. He had saved his life before. Unfortunately, he was murdered by a career criminal in the line of duty. That is a true example of the heroism of our police officers, the service and sacrifice they make, as well as their families. Unfortunately, that says it all right there.

So today as I stand on the Senate floor, I think about my time as attorney general, I certainly think about the families of the police officers who have been killed in the line of duty in New Hampshire and the sacrifices that every single day our men and women in uniform make on our behalf.

On Friday in New Hampshire there will be a law enforcement memorial ceremony. It is a ceremony I plan to attend. It is a ceremony where each year we read the names that are etched into the memorial of those law enforcement officers who have been killed in the line of duty in New Hampshire. There have been far too many—far too many—who have made the ultimate sacrifice so the rest of us could live our lives in safety and in happiness. One of the privileges I had as attorney general was to read the names of our law enforcement officers who were killed in the line of duty, to recognize their service and their sacrifice, with often many of their family members there—family members who would offer a

flower or a beautiful wreath to recognize the sacrifice of their family so we could remember their family member, the law enforcement officers who were killed in the line of duty.

Today on the Senate floor I would like to read the names of these police officers who were killed in the line of duty in New Hampshire. I know we will recognize them in New Hampshire on Friday, but I want to recognize them on the Senate floor. They are, from Cheshire County, Deputy Sheriff John Walker, Sr.; from Dover, Officer George Pray; from Laconia, Police Officer Charles H. Dolloff; from Strafford County, Deputy Sheriff Charles E. Smith; from Manchester, Sergeant Henry McAllister; from Manchester, Inspector William M. Moher; from Exeter, Officer Albert L. Colson; from Nashua, Patrolman James H. Roche; from Carroll County, Sheriff Harry M. Leavitt; from New Hampshire State Police, Raymond Elliott; from Lancaster, Chief Andrew T. Malloy; from New Hampshire State Police, Trooper Harold B. Johnson; from Colebrook, Chief Fred T. Towle; from Nashua, Patrolman Michael Latvis; from New Hampshire State Police, Lieutenant Ivan H. Hayes; from Northumberland, Officer Joseph H. Platt; from Nashua, Patrolman Edward C. Graziano; from New Hampshire Fish and Game, Conservation Officer William Mooney; from New Hampshire Fish and Game, Conservation Officer Gary Waterhouse; from Farmington, Assistant Chief Louis A. Sheets; from Berlin, Officer Robert Devold; from Berlin, Officer Dorman Wheelock; from Gorham, Officer Jerome O. Piet; from Rockingham County, Department of Corrections Officer Robert Charles Prescott; from New Hampshire Fish and Game, Conservation Officer James Clark II; from Nashua, Acting Chief Armand J. Roussel; from Seabrook, Chief Charles S. Knowles; from Durham, Lieutenant Robert Hollis, Jr.; from Berlin, Sergeant Paul G. Brodeur; from Manchester, Officer Ralph W. Miller; from New Hampshire State Police, Trooper Richard F. Champy; from Somersworth, Patrolman Donald R. Kowalski; from Jaffrey, Police Supervisor William E. O'Neil, Sr.; from Hanover, Chief James H. Collins; from Derry, Sergeant Thomas C. Kelly; from New Hampshire State Police, Trooper Gary P. Parker; from New Hampshire State Police, Trooper Joseph Edward Gearty; from Antrim, Chief of Police Ralph C. Brooks; from New Hampshire State Police, Sergeant James Stanwood Noyes; from East Kingston, Officer Melvin Alan Keddy; from Auburn, Lieutenant Donald Eaton; from New Hampshire State Police, Trooper Leslie George Lord; from New Hampshire State Police, Trooper Scott Edward Phillips; from Epsom, Patrolman Jeremy T. Charron; from Manchester, Officer Michael Leland Briggs; from Franconia, Corporal N. Bruce McKay; from Greenland, Chief of Police Michael P. Maloney; and from Brentwood, Patrolman Stephen Arkell.

As I read those names, it obviously strikes me—it is shocking how many names are on that wall in our State. Having met and worked with so many of our law enforcement officers—they are incredibly brave. The sacrifices of their families are tremendous.

Most recently, I went to two community events to recognize—really memorialize—these fallen heroes. The Maloney family and the Arkell family have started foundations to help other police families, to help have scholarships in the names of these two decorated officers. Unfortunately, those are the two most recent additions to this wall.

Chief Maloney embodied the values of service, integrity, and honor. His leadership in the Greenland Police Department will never be forgotten. He was admired by everyone in the community. This is another example of the sacrifice our police officers make. He was only a few days before his retirement. He could have stayed in the station, but he went out to the call with his fellow officers and, when the situation escalated, Chief Maloney did what he always did. He put his life before his fellow officers, and because of his sacrifices that day, other lives were saved. Unfortunately, we lost Chief Maloney in the line of duty just days before his retirement. If that is not a hero, I don't know what is and who is.

When I think about his family, and having gotten to know his family, I know today, as we think about the importance of this week, I just want to say thank you to them and just let them know they continue to be in our prayers, and we will not forget Chief Maloney's service and his sacrifice and his heroism.

Likewise, just like Chief Maloney, Officer Stephen Arkell was taken from us far too soon. He was an unsung hero. He went about his extraordinary work as a police officer very quietly and humbly, going above and beyond the call of duty not only as a police officer but as a coach in his community, as someone who has helped so many other people and made a difference in people's lives. During his 15-year career as a police officer, he made a difference for the people of Brentwood. He made us proud, and he was another true hero in his community.

Today, during National Police Week, I want to say to his family, who recently had a 5K in his honor to provide scholarships for others in the Brentwood community, thank you for your sacrifice. We will never forget the sacrifice of Officer Stephen Arkell.

During National Police Week, as I stand on the Senate floor, one of the things that has bothered me is, too often the rhetoric we have been hearing about our police and our law enforcement officers out in the public discussion has been negative. It has been negative. It has been sweeping. It has been basically stereotyping our police, and it has been wrong. So, today, during this important week, I want to say to our law enforcement officers in

New Hampshire, I want to say to the law enforcement officers across this country who keep us safe: Thank you. We stand with you. We are proud of you. We have your back because we know you have our backs every single day, because we would not be a free and safe society but for the sacrifices our law enforcement officers make every single day in New Hampshire and in every State in this country. They are the thin blue line between us and those who want to do us harm and threaten our way of life.

So when we hear people who are making sweeping generalizations about our police that are negative, I want the people of this country to think about what it would be like if we didn't have the courageous law enforcement officers who patrol our streets every single day, who go out on nights and weekends and holidays when we are safely home sleeping, who are out making sure we are safe. We should stand up for our law enforcement officers.

This week, of all weeks, as we are here for National Police Week, we need to honor our law enforcement officers. We need to thank our men and women in uniform who patrol our streets and our highways and in every way protect us, whether as corrections officers or Fish and Game officers or as State police—at every single level in the State of New Hampshire, we say thank you. We stand with you. I thank you. I hope that as we stand here this week, all of us will make sure that we thank also the Capitol Police for the incredible work they do here keeping us safe and defending this Capitol.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am going to speak about an amendment that I am going to propose right away. It is about fidelity to the Constitution and the Bill of Rights—specifically, fidelity to the Second Amendment as it involves the Department of Veterans Affairs.

There appears to be a troubling trend within the VA. As of December 2015, almost 99 percent of the names listed on the “mental defective” category for the National Instant Criminal Background Check System, otherwise known as the national gun-ban list, are from the Veterans Administration. Once a person's name is on that list, they are banned from owning or possessing a firearm. Their Second Amendment rights are completely null and void.

Now, why is this happening? Once the VA determines that a veteran requires a fiduciary to administer benefit payments, the VA reports that veteran to the gun-ban list, resulting in a total denial of a veteran's right to possess and own firearms. In other words, their Second Amendment rights are being denied.

The VA has attempted to justify its actions by relying on regulations that grant limited authority to determine incompetence only in the context of financial affairs. So I quote: “Rating

agencies have sole authority to make official determinations of competency and incompetency for the purpose of insurance and disbursement of benefits."

It is clear, therefore, that the VA's core regulatory authority applies to matters of competency for financial purposes. Importantly, this financial fiduciary standard has been employed since way back in the 1970s. It has nothing to do with regulating firearms. Yet that is exactly what is happening. Firearms are being regulated. Federal law requires that before a person is reported to a gun-ban list, they be determined a "mental defective."

The Bureau of Alcohol, Tobacco, Firearms and Explosives created a regulation to define what "mental defective" means. It includes, among other requirements, that a person is a danger to self or others. Granted, the VA regulation at issue and the ATF regulation do share some of the same language. But the intent and the purpose are totally different. On the one hand, the VA regulation is designed to appoint a fiduciary. On the other hand, the ATF regulation is designed to regulate firearms.

Now, this is a huge distinction. The level of mental impairment that justifies taking away the right to possess and own firearms must rest at a severe and substantial level—a level where the mere possession of a firearm constitutes a danger to self or others. That decision is never made by the VA, or the Veterans Administration, before submitting names to the gun-ban list.

As such, imposing a gun ban is a harsh result that could sweep up veterans that are fully capable of appropriately operating a firearm for self-defense purposes. So how does this work, then, in practice? The Daily Caller interviewed a veteran who had been a victim of this VA process for an April 21, 2015, article.

The veteran reportedly told a VA counselor, who asked about how he handles his finances, that on the mere suggestion of his wife, he now uses auto debit for bills so he doesn't have to go to the post office. The VA doctor put down that he doesn't pay his own bills, and his wife handles his finances. The next thing he knew was that his wife was appointed as his fiduciary and his name was placed on the gun-ban list.

Whether or not he handles his own finances, what does that have to do with talking away a veteran's right to self-defense? After all, this is the core purpose of the Second Amendment—self-defense. Self-defense is a natural right of all individuals. It is a God-given right. It is a right that existed before the Declaration of Independence and the Constitution were ever drafted. It is a sacred right.

The Supreme Court has held the Second Amendment to be a fundamental right. So, when the Federal Government erases that right for any given individual, it better then have compel-

ling justification to do so. Assigning a fiduciary is not a compelling justification. That is especially so when the VA does not even determine whether veterans are a danger to themselves or others before reporting the names to that gun-ban list.

Further, the VA fails to offer adequate constitutional due process protections. The standard of review—clear and convincing evidence—is particularly low in light of the fact that a constitutional right is involved. Hearsay is allowed in the hearing process, and the burden of proof is on the veteran to show that they are competent to manage their finances. In essence, it is the veteran who has the burden of proof of showing that they should maintain their Second Amendment rights, although, again, that is not even the purpose of the hearing. That cannot stand. When constitutional issues are at stake, the burden ought to be on the government.

Finally, the hearing that does take place is before VA employees, not a neutral arbiter. With these significant flaws, it is clear that the VA regulatory scheme is inherently suspect. Importantly, these VA regulations have been in place since the 1970s, well before even the existence of a gun-ban list. The Supreme Court held the Second Amendment to be a fundamental right in 2010. Associate Justice Alito, who wrote the opinion of the Court, stated: "It is clear that the Framers . . . counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty."

It cannot be said that the VA's regulatory scheme adequately protects the liberty interests of the veteran—quite the contrary. The VA regulatory scheme is an example of the Federal Government once again going too far. As government expands, liberty contracts. There are just too many flaws in the VA's regulatory scheme that result in a failure at ensuring constitutional demands are met.

There has been no update to the VA's protocols since the Supreme Court's decision in 2010. During the course of my oversight of this issue, not even the Department of Justice can adequately explain why there has been no substantive update to the gun-reporting system. That is why I have introduced this amendment.

My amendment is simple. It is straightforward. It makes perfect constitutional sense. It simply requires that before the VA reports names to the Department of Justice for eventual placement on the gun-ban list, the Veterans Administration must first find that a veteran is a danger to himself, herself, or others, and that finding must be done via judicial order.

These requirements do three important things: First, it makes the "danger to self or others" standard applicable to the VA. We all agree, don't we, that dangerous persons must not own or possess firearms.

Second, it shifts the burden of proof from the veteran and onto the government, where it ought to be. Third, it fixes the conditional due process issues by moving the hearing from the VA to the judicial system.

Like I said, these are commonsense constitutional fixes, but, more importantly, it is what our Nation's veterans deserve. Our veteran population is sacred. They deserve the thanks of a grateful Nation, not the iron fist of an out-of-control Federal Government.

Most importantly, the government must not unfairly target our veteran population simply because some may have challenges after returning home from war, like maybe having someone handle their finances. The fact that almost 99 percent of the names in the gun-ban list of the category that we call "mental defective" are from the VA raises suspicion that our government is unfairly targeting veterans.

That is why the American Legion and the Veterans of Foreign Wars have expressed strong support for my amendment. There is nothing more offensive to the principles of liberty than when the government takes away a person's constitutional rights when it has no right to take away those constitutional rights. Moreover, I have heard from Iowa veterans that some veterans are even reluctant to seek care from the VA for fear of losing their Second Amendment rights.

It is outrageous, then, that veterans are afraid to seek the care they have actually earned by being in service to their country because the VA might deprive them of a constitutionally protected right without due process. This must stop.

I urge my colleagues to support this legislation. Support it on constitutional grounds, support it on fairness grounds, and support it for the sake of veterans who may be wrongly targeted. To all of our Nation's veterans, I say: God bless you, and thank you for your service to our great country. You deserve better than to have your rights violated by the very agency that is supposed to fulfill our Nation's commitment to you.

I urge my colleagues to join me in making this very bad situation right—constitutionally right.

Mr. President, I ask unanimous consent to have printed in the RECORD a May 16, 2016, letter from the VFW supporting this approach.

I repeat for my colleagues that the American Legion supports it, but they couldn't get a letter to us.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS  
OF THE UNITED STATES,  
Washington, DC, May 16, 2016.

Hon. CHARLES E. GRASSLEY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of the nearly 1.7 million members of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I write in support of

your amendment to H.R. 2577, which would protect veterans' rights under the Second Amendment of the United States Constitution.

Currently, when the Department of Veterans Affairs (VA) makes the determination that a veteran would benefit from the assistance of a fiduciary to handle his or her finances, VA sends that veteran's name to the National Instant Check System, preventing them from legally purchasing firearms. The VFW has long opposed this practice, believing that veterans who swore to support and defend the United States Constitution should not lose their rights under the Second Amendment simply because they need fiduciary assistance. The need for a fiduciary in no way implies that they are a danger to themselves or others. By ensuring that no veteran loses his or her right to purchase firearms without order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction, your amendment would put an end to this objectionable VA practice.

The VFW thanks you for your leadership on this issue, and your commitment to protecting veterans' constitutional rights and liberties. We look forward to working with you and your staff to pass this much needed amendment.

Sincerely,

RAYMOND C. KELLEY,

*Director, VFW National Legislative Service.*

Mr. GRASSLEY. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 3925.

The PRESIDING OFFICER. Is there objection?

The Senator from Illinois.

Mr. DURBIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I listened carefully to the explanation of my friend and colleague from Iowa. I hope there are several things we can agree on at the outset. The first is that we don't want someone who is a convicted felon or is so mentally unstable that they cannot be trusted to own or purchase a firearm. I hope we can agree on that.

Mr. GRASSLEY. I agree.

Mr. DURBIN. Good.

I hope the next thing we can agree on is that we want to make certain that our veterans are treated fairly, that they are given every consideration for having served our country, but we do not want to put them in harm's way either by way of suicide or by committing a crime with a gun, and we want to have a process that respects that goal. I hope my colleague and friend from Iowa would agree with that.

The problem we have is the Senator from Iowa is amending an appropriations bill. The difficulty you face when you amend appropriations bills, in most instances, if you are not authorizing and strictly sticking within the four corners of an appropriations bill, you can cut off funds—no funds shall be spent for—and that is what the amendment of the Senator from Iowa does. No funds shall be spent at the Veterans' Administration for—and he just described the process.

Here is the difficulty. This amendment as written doesn't solve the problem; it creates a bigger problem.

I will concede at the outset to the Senator from Iowa that we should be sitting down and resolving a very serious issue between the definition of "mental defect" and "mental competency" between the NICS law and the VA. There is plenty of room for us to sit down and come up with a reasonable way to deal with the situation. But the amendment offered by the Senator from Iowa just basically says, unfortunately, that we are going to weaken the law that prohibits people with serious mental illnesses from buying guns.

Currently, the Department of Veterans Affairs informs the FBI NICS gun background check database when a veteran has been found in a VA proceeding to be mentally incompetent because of injury or disease. I want to make sure that is clear in the RECORD. This is what it says. In connection with an award of veterans' benefits, the VA formally may determine as "mentally incompetent" a person who "because of injury or disease lacks the mental capacity to contract or to manage his or her own affairs, including disbursement of funds without limitation." This is an adjudication, a hearing on mental competency which goes to the question of whether the veteran is mentally incompetent because of injury or disease.

Under the amendment offered by the Senator from Iowa, VA mental health determinations would no longer count as prohibiting gun possession. Tens of thousands of names currently in the NICS system would likely need to be purged, meaning these people could go out and buy guns. Last year the VA told my staff they had supplied 174,000 names to the NICS database because of diagnosed mental conditions.

I do not dispute what the Senator from Iowa suggested—that some of these veterans may be suffering from a mental illness not serious enough to disqualify them from owning a firearm, but certainly many of them do.

Last year the VA told us that this list of 174,000 names includes 10,168 individuals diagnosed with paranoid schizophrenia, 3,981 individuals with major depressive disorder, 2,835 individuals with bipolar disorder, and many others who have been found to have very serious mental illnesses.

Allowing people with these serious mental illnesses to buy guns raises the very serious risk of suicide and violence. Already we are seeing an average of 22 suicides by veterans every single day. That is double that of the civilian population. To hand guns over to people such as the 14 or 15,000 whom I have just described who have serious mental illness is dangerous—dangerous to them, members of their family, and to the public.

The VA's referral process is not haphazard. There are due process safeguards to make sure the VA is not referring names inappropriately. The VA

has set up a relief program for a veteran to contest a finding of mental competency. If we need to revisit that process—and as I said at the outset, I am not arguing that we shouldn't—we need to do it in the context of substantive legislation so that we treat the veterans fairly, treat their families fairly, and treat the public fairly in dealing with this constitutional protection. But simply invalidating the mental health records of 170,000 people the VA has supplied to the FBI, as this amendment would do, is dangerous—dangerous to the veterans, dangerous to their families, and dangerous to the public.

Let's do this in a thoughtful, orderly way, not by an appropriations bill.

I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, we are not talking about convicted felons here, like the first thing the Senator from Illinois started to say. What we are trying to do is protect the constitutional rights of veterans, Second Amendment rights, and we are preventing the government from spending money to violate the constitutional rights.

As I just made clear, the main purpose of the VA regulation is to appoint a fiduciary, not to regulate firearms, but it has the effect of regulating firearms. This standard has been in place since the 1970s. It has nothing to do with regulating firearms.

Don't you think that since the Supreme Court held the Second Amendment to be a fundamental right in 2010, there ought to be an update of this system?

Indeed, Federal law made clear that the regulations prescribed by the VA Secretary are limited to "the nature and extent of proof and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws," 38 USC 501. Again, that provides no authority to regulate firearms, but it has that impact.

Just like the Senator from Illinois, I don't want dangerous persons to have firearms, but the government must first prove a person is a danger before taking away their constitutional rights.

I am somewhat disappointed that Members on the other side of the aisle would object to even considering an amendment that simply protects veterans from having a fundamental, constitutional right taken away and doing it without due process.

When we were in the minority, we were accused of being obstructionist because we wouldn't go along with the then-majority leader's efforts to block Senators of both parties from offering amendments. Now that we are in a majority, Senator McCONNELL has tried to restore the tradition of having amendments considered from both sides of the aisle. Yet we have these old



tricks—still refusing to vote on amendments that show the American people whose side they are on.

I think this is an opportunity to show you are on the side of the veterans—veterans who probably handled guns in Iraq and Afghanistan not being able to do that here.

I don't understand what is so tough about voting on whether veterans' constitutional rights should be protected. It should be clear to anyone paying attention who is obstructing. They tried to destroy the Senate as a deliberative body when they were in the majority. Now they are obstructing a vote on protecting the fundamental constitutional rights of those who have put their lives on the line for our country. Shame on you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, before my friend and colleague leaves, we have worked together for years, and I respect very much his legislative capability. He and I are working together on some very important legislation.

I am not a member of the Veterans' Affairs Committee. I don't know if the Senator from Iowa is a member—he is not. This is a subject matter that is in the jurisdiction of that committee.

Let me just concede at the outset that reporting 174,000 names to the FBI goes too far, but eliminating 174,000 names goes too far. We need to find a reasonable way to identify those suffering from serious mental illness who would endanger themselves, their families, or others and to sort out those who don't fit in that category. We can do that and we should do that in a reasonable way, so we are respectful of veterans and also respectful of the general public's right to be safe from the misuse of firearms.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would just say a simple thing. I have already said we don't want dangerous people to have guns. But the point is that the VA is not identifying the people who might be a danger to themselves or a danger to society. As the Senator from Illinois says, they are simply doing it because "You can't handle your own finances." That is where their constitutional rights are being denied. Their constitutional rights are being denied by a VA employee—maybe somebody who doesn't know anything about mental health—and that is wrong. That is what we are trying to prevent.

I yield the floor.

The PRESIDING OFFICER (Mr. DAINES). The majority leader.

#### CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk for the Collins substitute amendment No. 3896.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Senate Amendment No. 3896 to Calendar No. 138, H.R. 2577, an act making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2016, and for other purposes.

Mitch McConnell, Susan M. Collins, Roy Blunt, John Cornyn, Richard Burr, Bill Cassidy, Roger F. Wicker, Johnny Isakson, Marco Rubio, Mark Kirk, Lindsey Graham, Chuck Grassley, Jerry Moran, Orrin G. Hatch, John Hoeven, John Barrasso, John Boozman.

#### CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk for the underlying bill, H.R. 2577.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 138, H.R. 2577, an act making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2016, and for other purposes.

Mitch McConnell, Susan M. Collins, Roy Blunt, John Cornyn, Richard Burr, Bill Cassidy, Roger F. Wicker, Johnny Isakson, Marco Rubio, Mark Kirk, Lindsey Graham, Jerry Moran, Chuck Grassley, Orrin G. Hatch, John Hoeven, John Barrasso, John Boozman.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum calls with respect to the cloture motions be waived.

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

### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations en bloc: Calendar Nos. 444 through 447, 467, 217, 218, 479, 480, 482, 484, 553, 554 through 558, with no other executive business in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nominations en bloc.

The senior assistant legislative clerk read the nominations of Linda Thomas-Greenfield, an Assistant Secretary of State (African Affairs), to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring September 27, 2015; Linda Thomas-Green-

field, an Assistant Secretary of State (African Affairs), to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 27, 2021; John W. Leslie, Jr., of Connecticut, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2019; Linda I. Etim, of Wisconsin, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2021; Georgette Mosbacher, of New York, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2018; Todd A. Fisher, of New York, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2016; Deven J. Parekh, of New York, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2016; Robert Annan Riley III, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federated States of Micronesia; Karen Brevard Stewart, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Marshall Islands; Matthew John Matthews, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as United States Senior Official for the Asia-Pacific Economic Cooperation (APEC) Forum; Marcela Escobari, of Massachusetts, to be an Assistant Administrator of the United States Agency for International Development; Swati A. Dandekar, of Iowa, to be United States Director of the Asian Development Bank, with the rank of Ambassador; Adam H. Sterling, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic; Kelly Keiderling-Franz, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Oriental Republic of Uruguay; Stephen Michael Schwartz, of Maryland, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Somalia; Christine Ann Elder, of Kentucky, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Liberia; and Elizabeth Holzhall Richard, of Virginia, a Career Member of the Senior