

Republican colleague. What we cannot do is stay in denial. For both our environment and our economy, and indeed our honor, we cannot afford to keep sleepwalking. It is time to wake up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

#### USA FREEDOM ACT

Mr. TOOMEY. Madam President, I rise today to speak on H.R. 2048, the USA FREEDOM Act. I want to put it in some context and discuss why I voted the way I did today, but first, a little background.

It has been now more than a decade since Al Qaeda launched its deadly attacks on U.S. soil that we all remember so well, killing 2,977 people in New York City, in Washington, DC, and just outside of Shanksville, PA, injuring about 2,700 more, and taking away far too many parents, children, wives, husbands, families, and friends.

As we gather here today, we face other grave threats as well. One of the most grave threats is the threat of the Islamic State of ISIS. Secretary of Defense Hagel described it this way. He said ISIS is “beyond anything that we’ve seen” and constitutes an “imminent threat to every interest we have.”

We know this is a brutal group. They behead people. They crucify people. They burn people alive. They systematically sell young girls into slavery. They control large regions in the Middle East now. They have their sights set on attacking the United States.

We know there are radicalized ISIS sympathizers and adherents here in the United States. Many of them are eager to carry out this group’s destructive ambitions right here in our own country.

We know ISIS has the resources to carry out attacks on our homeland. Al Qaeda spent about half a million dollars. That is what it cost them to plan and execute the entire attack on the World Trade Center and the Pentagon. ISIS has amassed a \$2 billion fortune—4,000 times as much money as Al Qaeda spent on September 11. ISIS collects something on the order of an additional \$1 million to \$2 million every day through the variety of means it has because of the land it controls. So this is a very serious threat.

Like any other threat, we have an obligation to protect the American people from this to the extent we can. In the process, we have an obligation to strike an appropriate balance between the national security we owe our constituents, the American people, and the robust civil liberties we ought to protect because they are enshrined in our Constitution and important to our country. In my view, section 215—the controversial part of the USA PATRIOT Act—appropriately struck that balance.

The best policy we could have pursued this week would have been to reauthorize section 215 in pretty much

the form it has been in. If we had done so, we would have been repeating what we had done many times before by overwhelming bipartisan majorities I think seven previous times. In 2005, 2006, 2009, 2010, and 2011, Congress reauthorized the USA PATRIOT Act, including section 215. Congress did that because there is nothing radical about section 215 or the PATRIOT Act. This—what became a very controversial section recently—simply gave our national security officials the same kind of ability to access documents, reports, and other tangible items when investigating a potential international terrorist attack that a grand jury has and has long had when investigating ordinary criminal events such as a car theft.

It is important to note what section 215 did not authorize. It did not authorize the NSA to conduct wiretaps or listen in on any phone conversations. That has never happened. Despite that, there has been rampant misinformation about the telephone metadata program, as it is referred to, that was conducted under section 215, so I want to discuss that a little bit.

I think one of the most important things to stress here is that this metadata program contained only information a third party had. It was not private information that an individual possessed; it was third-party information held by a telephone company. What is that information the phone companies have always had? It is a phone number. It is a date and time of a call. It is the duration of a call. It is the number being called. That is it. That is the sum total of all of the information in this so-called metadata program. Because that is all the information, it was completely anonymous. Not only did it not include any context of any conversation—that was not possible. Conversations have never been recorded, so the contents have never been captured. But it also did not contain any identifying information with the phone numbers. There are no names, no addresses, no financial information. There is no information that would in any way identify anybody with any particular number.

So what did the government do with the metadata it had received? Well, it stored it all in a big database, on a big spreadsheet with all of those numbers. That is all it was, was a lot of numbers.

When the government discovered a phone number from a known terrorist, when a group of special ops American forces took down a terrorist group somewhere and grabbed a cell phone, then the government could conduct a search of the metadata, but first a Federal judge would have to give permission.

After running the search to determine whether in that metadata there had been phone calls between the known terrorists and numbers in that database, even after doing the search, the government still had no information identifying the phone number be-

cause that is not in the database. Of course, as I said before, certainly there was no content because content had never been recorded.

But a link might be established—and if it were to be established, if Federal investigators discovered that the known terrorist was in regular phone communications, for instance, with someone in the United States, then that fact could be turned over to the FBI, and the FBI could conduct an investigation, which might be a very useful investigation to have.

Well, we have had a number of officials who have told us how important this program has been, the intelligence value we have received. President Obama, himself, explained that had the section 215 metadata program been in place prior to 9/11, the government might have been able to prevent the attack. Remember, we learned afterward about our inability to connect the dots. This was a program that was designed to enable us to connect those dots.

Even the critics of this program—which, as we know, there are many—have never suggested this program was in any way abused, that any individual person had their rights violated, that there was any breach. That case has never been made, not that I have heard. Given the value of the program—as we have heard from multiple sources—and the complete absence of any record of any abuse of the program, in my view, Congress should have reauthorized this program, including section 215.

But, instead, we have passed an alternative, and that is the USA FREEDOM Act. I voted against this measure today because I am concerned the USA FREEDOM Act does not provide us with the tools we need at a time when the risks have been as great as ever. Let me just mention some of these.

First, under the USA FREEDOM Act, it is entirely possible that the government may not be able to continue any metadata program at all. I say that because the bill explicitly forbids the government from maintaining the database that we have been maintaining and instead the bill assumes that private phone companies will retain the data, and then the government will be able to access that data as needed.

But there is a problem with this assumption. The problem is the bill doesn’t require the phone companies to preserve any of this data. Under the USA FREEDOM Act, the phone companies could destroy the metadata instantaneously after a phone call occurs.

They have a regulatory obligation to keep billing information, but a lot of bills are unlimited calls with a single monthly charge. They have no statutory or regulatory requirement to retain the records of these calls. As currently practiced, I am not aware of any phone companies that retain this data for the 5 years our intelligence officials believe is the necessary timeframe to provide the security they would like to provide.

There is another problem, it seems to me, with the USA FREEDOM Act; that is, it is entirely possible the time period contemplated for establishing the software that will enable the government to query the many different private phone company databases—that timeframe will not be long enough. We don't know whether it is going to be long enough. We will just find out, I suppose, when the time comes. But this is a complex exercise that has to be carried out in real time, and the USA FREEDOM Act simply creates a deadline. It doesn't ensure that we will have this in place.

A second concern I have is that the USA FREEDOM Act weakens other intelligence-gathering tools that are unrelated to any of the metadata programs which have received most of the attention.

So the USA FREEDOM Act gives intelligence officials—

The PRESIDING OFFICER. The Senator from Pennsylvania has used 10 minutes.

There is an order to recognize the Senator from South Dakota.

Mr. TOOMEY. Madam President, I ask unanimous consent for 30 seconds to wrap up.

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

Mr. TOOMEY. Madam President, I conclude by saying that we are at least at as great a risk as we have ever been, and the first priority of the Federal Government of the United States is to protect people of the United States.

I am deeply concerned that the USA FREEDOM Act diminishes an important tool for providing for this security, and I hope that in the coming months we can address this bill and try to correct the many flaws it has.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

#### REGULATORY REFORM

Mr. ROUNDS. Madam President, I rise, for the first time speaking in this Chamber, to discuss the future of our great Nation, how truly fortunate we are to live in the greatest country in the world.

We are protected by the best military that has ever existed and that, in turn, allows us to live freely here at home, to focus on our God-given rights of life, liberty, and the pursuit of happiness.

In my home State of South Dakota, we cherish these rights. We have the opportunity to make our dreams come true because we have these rights and because we have a commonsense value system to guide us.

When I was elected, I promised to bring South Dakota common sense to Washington and to work to solve problems for the good of every South Dakotan and every American. But, unfortunately, when I travel back home, I continue to hear from my fellow South Dakotans about the Federal Government infringing on these rights and values.

You see, our great Nation has been bogged down in recent years with what I believe is one of the greatest hindrances to job growth and economic productivity; that is, the overregulation of our citizens. Overregulation is not a Democratic or a Republican issue, it is an issue that affects every single one of us. But I believe it is a challenge we can solve through cooperation and perseverance. It doesn't matter if you are talking about a doctor or a small business owner or a farmer or a rancher, overregulation has affected every single sector of our society.

The regulatory burden on this country is nearly \$2 trillion annually, and this is in addition to the tax burden already placed on our American citizens. That regulatory burden is larger than Canada's entire economy. In fact, the cost to comply with Federal regulations is larger than the entire GDP of all but only eight other countries in the entire world.

Even more staggering, just a few years ago, we surpassed 1 million Federal regulations in America—1 million Federal regulations. Regulations are stifling economic growth and innovation and hurting the future of this country by crushing the can-do American spirit that founded our Nation, settled the West, won two World Wars, and put a man on the Moon—and every year more than 3,500 new Federal regulations are added.

This just does not make sense, and it certainly is not South Dakota common sense. What alarms me is not only the volume of regulations being thrust upon our citizens but also the process for creating them. The purpose of Congress is to be the voice of the people when making laws. Unfortunately, the voice of the people in the rulemaking process has been cut out and replaced by unelected government bureaucrats who think they know better than the farmer or the scientist or the entrepreneur.

Our Founders recognized the need for making laws, granting the power to create laws to Congress and only Congress. They meant that process to be difficult so our government would not overburden citizens and restrict their freedom, freedom that those Founding Fathers had just fought so hard to obtain. Through Congress, every citizen should have a voice, but unfortunately that is not what is happening today.

Our Founding Fathers created three branches of government with checks and balances for each one. They could never have imagined that we would have a regulatory process in place today where unelected bureaucrats would both write and have the final approval of the rules and regulations under which our people must live.

This regulatory regime, which is responsible for the 3,500 new rules each year, has essentially become a fourth branch of government and a de facto legislative body. The problem is exacerbated because these bureaucrats in

Washington have this misperception that they know how to run our lives better than we do.

While working as a business owner, a State legislator, as a Governor, and now as a Senator, I have seen just how detrimental this "Washington knows best" mentality is on the daily lives of South Dakotans and Americans.

Many of my friends on both sides of the aisle have come to the Senate floor in recent weeks and months with some great ideas and legislation to limit or stop or repeal or remove some of the worst regulations currently on the books. I applaud them for these efforts, many of which I also support.

I look forward to working with the senior Senator from South Dakota, my friend JOHN THUNE, as well as anyone who is willing to work with me to remove these burdens that are stunting American greatness and, well, bring a little South Dakota common sense back to our regulatory environment.

The regulatory system in America has run amok. Too often, burdensome, costly regulations are crafted by bureaucrats at the highest level of government, behind closed doors, with little input from everyday Americans who disproportionately feel the effects of these one-size-fits-all policies.

It is regulation without representation—and it is wrong. The American people are being squeezed out, their voices falling on deaf ears in Washington. Small businesses, which drive our economy and create the majority of jobs in America, are especially hurt by overregulation because they, too, have to hire lawyers and employees to comply with these rules. This takes away capital that could be used to hire new production employees and expand their businesses.

People in my home State of South Dakota feel victimized by their own Federal Government. It is keeping crops from getting to market, and it is keeping businesses from growing. The idea that unelected and unaccountable bureaucrats should be allowed to make sweeping rules and regulations with no recourse should be a concern to every American, regardless of political affiliation, because it impacts everyone. No party has a lock on the American dream, and American innovation doesn't have a party affiliation.

From the stack of paperwork required to process a bank loan to the regulatory price of putting food on the table, the cost of Federal regulations are ultimately passed down to each and every American. Without excessive regulation, imagine how much more money American families could have in their pockets to spend on what they want, instead of what the government wants. If we cut our redtape, families can stop having to cut their budgets.

The regulatory regime is a dark cloud over our entire economy. I am not saying there isn't a place for rules in our society; there is. Rules are meant to keep us safe and to promote the greater good, and I do believe there