RECESS

Mr. REID. Mr. President, I ask that the Senate now stand in recess under the previous order.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2007—Continued

Mr. ENZI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. MURRAY. Mr. President, 46 years ago, President Kennedy designated this week to honor our first responders, particularly police officers who have lost their lives in the line of duty.

This week is National Police Week, and Thursday is National Peace Officers Memorial Day. Here in Washington, DC, and across the country, our communities are honoring the contributions of their public safety officers.

I think all of us in this body would agree that our police officers, our firefighters, paramedics, and all of our first responders are heroes. Their jobs are dangerous and they are extremely demanding. Unfortunately, they too often do not get the respect and gratitude they deserve. And that is why I rise this afternoon to urge my colleagues to support the Public Safety Employee-Employer Cooperation Act, which would take a small step toward repaying that sacrifice.

In most States around the country, our police and firefighters have the right to form unions. In fact, my brother was a firefighter in my home State of Washington. He is a proud member of his local union. But even so, there are still several communities in which our first responders do not have the ability to negotiate. They do not have the ability to bargain for better wages or hours or working conditions or benefits.

The bill we are considering on the Senate floor this afternoon would ensure all of our first responders have the power to organize and stand for their rights. And I believe it will make a real difference for our public safety officers and for all of our communities.

I thank Senator KENNEDY and Senator GREGG for their work on this legislation. Their work truly has been a bipartisan effort, and I hope it is a sign the entire Congress is willing now to come together to ensure our first responders have a right most workers in our country already enjoy.

I believe this bill will make our police and fire departments stronger and our communities safer. Everyone in our communities gains when our police and firefighters are working together with their employers. Having a voice in their work schedules, in their safety procedures, in their pay scales and benefits helps our police and fire departments. It helps them improve safety and reduce the number of deaths and injuries on the job, and it makes most departments more efficient. A department that is safer and more efficient is a department that is then better able to respond to a crisis.

I believe there is another reason we as Members of Congress should vote now to guarantee the right for all first responders to organize. Ever since the September 11 terrorist attacks, we have called on our first responders to play an even greater role in keeping our homeland safe.

Increasingly, as every one of us knows, our police, our firefighters, our troopers, our paramedics are the eyes and ears on the ground in our cities, counties, and States where they serve, no matter how large or small their communities.

So I think as we ask our first responders to do more for our entire Nation, we owe it to them to ensure that across the country they have the same collective bargaining rights.

This bill is pretty simple. The new law would only affect States that do not already allow their public safety forces to bargain collectively. It does not set up a new system of legislation. In fact, it is designed to ensure States have as much freedom as possible to decide how to implement this law. And it specifically allows States to keep enforcing their right-to-work laws. States that are affected would have 1 year to create a process for discussions with workers. If they have not acted by then, the Federal Labor Relations Authority would establish a way to give employees the ability to choose whether to form a union.

And that is it. Unlike some of the false rumors you may have been hearing, it does not encourage police and firefighters to go on strike. In fact, it specifically outlaws that. It does not require State and local governments to adopt any particular terms. It excludes our elected sheriffs and other policymakers, and it will not affect an employee's right to work part-time or prevent them from volunteering.

In short, this bill would be very good for our first responders and very good for our communities. But seeing this bill become law would not only be a victory for our first responders, it would be the first major victory for organized workers in the last 7 years. Unions have forged the way for millions of working families to share in the prosperity they helped create. Unions have helped balance the relationship between employers and employees. And they help to ensure that working families get their fair share of the economic pie. I am very proud to stand with working families to protect their right to organize and advocate for on-the-job safety, job security, and fair pay.

As we recognize National Police Week, what better way to honor the sacrifice our police and other first responders have given us than by ensuring they have the right to collectively bargain. Allowing our first responders to negotiate with their employers is the fair thing to do, and it also happens to be the right thing to do.

I hope all of our colleagues will support them and our communities by saying yes and passing this legislation.

I yield the floor.

Mr. KENNEDY. Mr. President, I see my colleague from New York. I think he would like to speak on this issue, and then we will continue to balance off the speakers the best that we can to try to take into consideration the Members' schedules.

But we thank the Senator from New York. If he is prepared to speak, we would welcome his comments.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I am going to speak on this for a minute and then on one other issue that I mentioned to the Senator from Massachusetts. But first I thank him for his leadership.

The bottom line is, we have made progress in this country over the last 100 years because workers gather and bargain. Simply because somebody is in a life-threatening position, a position that saves lives—police and fire and emergency medical personnel—does not mean they should be deprived of that right.

The rules might not be exactly the same, and this bill is cognizant of that, but at the same time, for a policeman, a firefighter, to have the right to basically bargain and give his family a life with some decency and some dignity is extremely important. So I thank the leader from the Health, Education and Labor and Pensions Committee for bringing this bill forward. I think it will mark real progress.

I think, again, those who put their lives on the line for us, police and fire, should not be penalized because they are in those professions. The right to bargain is an important one. Many State and local workers have it. It is something I supported my whole career. I am proud to be a supporter of this legislation. I thank the Senator from Massachusetts for his leadership.

(The remarks of Mr. SCHUMER pertaining to the introduction of S.J. Res. 32 are located in todays RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SCHUMER. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KENNEDY. Mr. President, I thank my colleague and friend from Wyoming, Senator ENZI, for extending the courtesy, because we have had some speakers on our side, out of respect for their schedules. We have welcomed their comments at this time.

But I wish to refocus attention to the subject matter at hand, the matter that is before the Senate, and to describe in greater detail this legislation and the reasons for it and the support for this important piece of legislation.

First, I commend the Senate for voting earlier today to take up the Public Safety Employer-Employee Cooperation Act. The House passed this bill last July by an overwhelming vote of 314 to 97. The Cooperation Act isn't just about protecting union rights. This bill is vitally important to each and every American because, at its core, it is about safety, the safety of our dedicated first responders and the safety of our Nation in this new era of heightened concerns about homeland security. The bill takes a major step forward in protecting our firefighters, police officers, emergency medical technicians, and other first responders from danger on the job. Public safety workers are on the front lines of our constant efforts to keep America safe. They are all on call 24 hours a day, 7 days a week, doing backbreaking, difficult work, and doing it with great skill, great courage, and great dedication.

We have seen all too often how dangerous these jobs can be. These charts illustrate the point. In 2006, more than 75,000 police officers were injured in the line of duty. Last year, 140 police officers paid the ultimate price and lost their lives in the line of duty. We see similar numbers with firefighters who put their lives on the line every day. In 2006, more than 83,000 firefighters were injured in the line of duty. Last year, 115 firefighters paid the ultimate price. Another 45 have lost their lives so far this year. This is dangerous work, life-threatening work. These are careers which men and women follow for years with great courage, dedication, and commitment to the public interest and to the families of America. Those are the individuals we are talking about with this legislation.

First responders can also face chronic long-term health problems as well. The courageous firefighters who rushed to Ground Zero on 9/11 now suffer from crippling health problems such as asthma, chronic bronchitis, back pain, carpal tunnel syndrome, depression, and post-traumatic stress disorder. They often pay the ultimate price. Last year 250 public safety employees across the country lost their lives in the line of duty. Our public safety workers do not hesitate to rush into fires, wade into floods, put their lives on the line in other ways to protect our homes, our families, and our communities. They know better than anyone else what is needed to keep them as safe as possible on the job, and they deserve the right to have a voice in decisions that profoundly affect their lives and their safety.

When governments and public safety workers are unable to cooperate through collective bargaining, the workers' lives are put at needless risk. The numbers tell the story. Look at this chart. States without collective bargaining, which is the underlying issue before the Senate with this legislation, have 39 percent more fatalities. The reason primarily is because firefighters know how to work in ways that can protect the public and also can provide greater safety and security for the firefighters and first responders and police officials as well, based upon their experience, their knowledge of the task which is before them. Because of that, they are able to have a much better safety record. That is basically what we are trying to share, that kind of experience, with the other firefighters and police officials and first responders in other parts of the country who don't have these kinds of protections.

Behind those numbers are the tragic stories of lives that could have been saved with better communication or better cooperation of effort. A heartbreaking example occurred last year in Charleston, SC. Here is the story. In 2002, the Charleston firefighters association asked the city to begin following the National Fire Protection Association. That is an organization that makes recommendations with regard to safety and security in fighting fires. Unfortunately, there was no mechanism to ensure that these concerns could be heard and addressed. On June 18, 2007, nine Charleston firefighters died in the line of duty. In October of 2007, an expert panel hired by the city to investigate the loss recommended that the department begin following NFPA standards and begin meeting with workers.

That was their recommendation after experiencing the loss of lives. Afterwards we wanted to try to establish a procedure to avoid those kinds of circumstances in the future. We will never know how many lives might have been saved on that day in Charleston, if adequate safety standards had been in place, but we do know that in many other fire departments across the country, critical discussions about safety should be happening, but they are not. Unless public safety workers have a voice on the job, these problems will never be fully and fairly addressed. Without the protection of collective bargaining, workers are afraid to speak out for fear they will face retaliation. These fears are well founded because of countless examples of brave and dedicated first responders who have been harshly punished for raising safety concerns.

Consider the case of firefighter Stan Tinney of Odessa, TX. Here is his situation. In 2001, Stan Tinney, president of the Firefighters Association of Odessa, TX published a newsletter critical of the fire department's safety practices, including inadequate staffing and equipment. Tinney was suspended without pay, reprimanded, downgraded in a performance evaluation, and it took a Federal court that later found the Odessa officials violated Tinney's constitutional rights. It took a Federal case in order to do that. Think of all the other Stan Tinneys around the country who have been intimidated by that kind of action. We don't need that. We need to have suggestions. We need ideas. We need recommendations about how to protect our firefighters, our first responders, and our police community.

Tinney and four of his coworkers, when this incident took place, were questioned individually by city officials and Tinney was suspended without pay, reprimanded, and downgraded. A Federal court later found his constitutional rights had been violated, and the city settled Tinney's claim for $265,000. All that heartache and expense could have been avoided if there had been a mechanism in place for Tinney to express his concern. This legislation provides that.

The Public Safety Employer-Employee Cooperation Act will give Stan Tinney and countless others like him a voice in the decisions that affect their jobs, their health and safety, and their families. It will give them a safer workplace, and, just as important, it will give them a right to be treated with dignity and respect.

It is not just individual workers who will benefit from this important legislation. Enabling public safety workers and their employers to work cooperatively together makes our entire Nation safer.

In the past decade, we have seen dramatic changes in the way we protect our country. National security has become a local issue. Every city and town in our country—large and small, urban and rural—now has a vital role in keeping us safe from harm.

In this new and more dangerous world, State and local public safety workers are being asked to play an even larger role. We have asked them to become true partners with Federal security agencies in protecting our country from threats, and these dedicated workers have risen to the challenge. But year after year, we are failing to give them the support they need to do their vital jobs as effectively as possible.

Giving these brave men and women the voice they deserve at the bargaining table will facilitate cooperation between public safety workers and their employers. It will enable them to perform their jobs more efficiently and effectively. The benefits are obvious, and we see them in communities across the country that have already accepted the basic principles of public safety cooperation.

Take the example of Annapolis, MD. Until recently, scheduling rules for firefighters and paramedics in Annapolis, MD, often forced them—these are the workers—to work 48-hour shifts, leaving workers vulnerable to exhaustion and dangerous mistakes. The local union worked with management through collective bargaining to change scheduling rules, shortening

shifts and improving safety for the workers and the public. It does not sound too complicated. It just sounds like common sense to me. And it sounds like an important step in order to provide greater safety and protection for families in Annapolis. Workers there were concerned about scheduling rules, and through a cooperative collective bargaining relationship, the union worked with management to negotiate a new schedule that met the city's needs, while reducing the length of individual shifts. These obvious changes resulted in better rested and more effective firefighters and paramedics, with real benefits to both the first responders and the communities they serve.

Such cooperation also gives State and local governments the flexibility they need to respond to changing circumstances.

Look at this chart. The economy in Tulsa, OK, was struggling after September 11. Through collective bargaining, the mayor and the firefighters agreed to defer payments into the firefighters' Health and Welfare Trust for 1 year. The deferral saved the city over $400,000, and the city was able to spread its repayment to the trust over a longer period of time, providing valuable flexibility that helped the city address its budget troubles—working together with the community and for the community, an important achievement and an important accomplishment.

Some of my colleagues argue that granting them collective bargaining rights will limit the ability of States and cities to respond effectively to an emergency. Nothing could be further from the truth. We have seen, in the most dramatic illustration, that all 343 firefighters who lost their lives in the line of duty on September 11 were union members and with collective bargaining rights. There is no question about their courage, no question about their bravery, no question about their willingness to do their duty and do it heroically. When challenged, that has certainly been the evidence time-in and time-out. So we reject those suggestions and those observations.

In addition, for example, before 9/11, the Port Authority police officers worked 8-hour days, with 2 days off, each week. After 9/11, everyone worked 12-hour shifts every day and all vacations and personal time were canceled. This hard schedule continued for nearly 3 years, but neither the union nor any union member filed a single grievance about it. They did their duty, and they did it heroically.

Do we understand that? As to police officers for the Port Authority that has responsibility in the greater port area in New York, before 9/11 they worked 8-hour days, with 2 days off, each week, and after 9/11 everyone worked 12-hour shifts every day and all vacations and personal time were canceled. The hard schedule continued for nearly 3 years, and neither the union nor any union member filed a single grievance—not a single grievance—when they were called upon to meet their responsibility—not a single grievance. They did their duty, and they did it heroically.

Our families and communities deserve the best public safety services we can possibly provide, and achieving that goal starts with the strong foundation that comes with collective bargaining.

No one doubts that our communities and our country are living on borrowed time. We all hope the numerous other steps we are taking will be successful in preventing similar catastrophic attacks. It makes no sense not to make the basic rights granted by this legislation available to all of America's first responders. It is an urgent matter of public safety. I commend Senator GREGG for his leadership on this important issue, and I urge my colleagues to give our heroes the respect and support they deserve by approving the Cooperation Act.

Mr. GREGG. Mr. President, today I am pleased to be joined by Senator KENNEDY and the other 31 cosponsors of the Public Safety Employer-Employee Cooperation Act of 2007, as we begin discussion of this legislation. The Cooperation Act would extend to firefighters, police officers, and other public safety officials the right to discuss workplace issues with their employers.

Each year, more than 80,000 police officers and 75,000 firefighters are injured protecting their communities. Not counting the tragic events of September 11, it is estimated that 162 police officers and 100 firefighters will lose their lives each year in the line of duty. These extraordinary individuals selflessly risk injury, and sometimes their lives, to protect others, yet they remain the only sizable segment of workers who do not have the combined right to enter into collective bargaining agreements with their employers.

The Public Safety Employee-Employer Cooperation Act is balanced in its recognition of the unique situation and obligation of public safety officers. The bill requires that, within 2 years of enactment, States offer public safety officers the ability to vote in a free and fair election on whether to form and voluntarily join a union and collectively bargain over hours, wages, and conditions of employment. The bill only affects States which do not currently provide this opportunity, and those States would have 2 years to establish their own collective bargaining systems that can meet their unique needs. This approach leaves the decisions regarding implementation, enforcement, and all other major details with the individual States and local governments, ultimately allowing them to have the final say over any contract terms. Finally, under this legislation, States with right-to-work laws, which prohibit employers and labor organizations from negotiating labor agreements that require union membership or payment of union fees, can continue to implement those laws.

The legislation recognizes the need to put public safety first, so the use of strikes, lockouts, sickouts, work slowdowns, or any other action that is designed to influence the terms of a proposed contract and that will disrupt the delivery of emergency services is strictly prohibited. It further protects small towns by ensuring that areas with populations of less than 5,000 or fewer than 25 full time employees are exempt from collective bargaining and that firefighters or EMTs who are employed by a department participating in collective bargaining agreements can still serve their local communities as volunteers.

Healthy labor-management partnerships result in improved public safety for our towns and cities. The bipartisan Cooperation Act helps build these partnerships by putting firefighters, law enforcement officials, and other public safety officers on much deserved equal footing with other private and public sector employees and providing them with the ability to negotiate with employers over basic workplace rights.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I appreciate the opportunity to finally comment on some of these things and to do my opening statement.

I do want to say I was a little surprised by the speech of the Senator from New York, Mr. SCHUMER, about, primarily, the price of gas. I have to say, he has got it right. That is the biggest concern on the minds of people across this country. No matter what else we are talking about, it is about the price of gas. What I learned from his speech is we are going to be disrupted in this debate later today as the majority leader rule XIVs an energy bill.

I wish to congratulate Senator DOMENICI for his work on putting together an energy bill which we had a vote on this morning. I really think if that could have been voted on in pieces, a number of those pieces would have passed and made a difference to this country.

I can see that the main thrust of the bill we are going to be interrupted by later to take a look at is one to force Saudi Arabia to increase their production by a million barrels a day or give up some arms purchases from us.

Let's see, if we sell them arms—which I have not looked at enough to know whether that is a good idea—we get some money back. When we force them to do a million barrels a day, we give them $120 million a day. Part of that, which some people do not like, was ANWR. ANWR would produce at least a million barrels of oil a day from the United States. We would be paying people in the United States for the oil, not shipping it over to Saudi Arabia, and we have to worry about what they are going to do with the arms we sell them.

So I can understand they ought to be concerned about gas and are finally

concerned about gas and are going to interrupt us to be concerned about gas, but we had a proposal this morning that should have gotten a little bit more consideration and some of those provisions put into effect so we could actually solve some of our energy problem.

Let's see now, we are going to put the burden on Saudi Arabia.

My first encounter with higher gas prices happened back in 1973. I was president of the Wyoming Jaycees. We did some things to Saudi Arabia they were not very pleased about, and they cut us off completely. That produced the biggest crisis in this country in my memory. We had lines at the gas pumps. We had people who could not transport goods. We had people who could not get gas. We were trying to figure out ways to store gas should we ever get it again. It was because Saudi Arabia said: OK, if that is the way you are going to be, no oil.

Well, at any rate, I do not think we are carrying as big a stick on this as we think we are. We need to be looking at a number of the solutions.

Windfall profits tax—that was a good way for us to drive our companies overseas to do their work, to sell us oil. That does not bring down the price of oil. If I had my way, I would call the energy companies in. I would tell them I want to know what they are doing with however many billions of dollars worth of profit they are making. I want to know about it weekly. And I would report to the American people on a weekly basis. I do not suspect that would bring down the price of oil. I do suspect that would bring up the investment in energy, all kinds of energy. We need to have that done.

So I do not mean to go on and on about this, but as long as we are going to be interrupted in our debate on public employees, I want to make sure I have my say on it too.

Mr. President, I do rise today to voice my opposition to H.R. 980, the so-called Public Employer-Employee Cooperation Act. The fact that this bill has come to the Senate today is just another example of the cynical calculus of election-year politics. We are still doing ''gotcha'' politics on this floor. How do I know that? I know we have not passed a bill that did not go through committee—not just the Health, Education, Labor, and Pensions Committee that I am the ranking member of but the other committees. If it does not go through committee, it does not pass. But here we have an issue that I am told was passed last July by the House. Do you know how many hearings we have held on it? I looked back 4 years, and we have not had a hearing on this one—not a hearing on it.

What we do at hearings is kind of invite people in to tell us some specific points they want to make on a particular bill. Now, you will find that I am not a very big proponent of hearings because the chairman—and I used to be the chairman—gets to invite all the people to the committee except one and the ranking member gets to invite one. Then, people from both sides show up to beat up on the other witnesses. That is not very productive.

We did switch to a system, occasionally, where we have had roundtables. Roundtables are a little bit different than hearings. With roundtables, you invite in 10, 15, 20 people who have actually done something in the area, and you hear what the problems are and what the advantages are, and after all of them have spoken, then they interact with each other. They are not Senators asking clever questions. They interact with each other on ways their ideas fit with somebody else's idea. They come up with some good legislation.

Now, we have not ever had hearings—or roundtables on this issue. So how do you know what is really a good idea? How do you know what the effect is going to be on other people when you do not do anything to prepare for it and then you bring it right to the floor?

Another advantage of going through committee is that you can find out what the concerns are from the amendments when it gets to the markup process. From those amendments, you can say: Well, this might be a good idea, but we have to revise it a little bit. People go off and work on that part of the idea, and they bring it back in a workable fashion that will fit that both sides agree on.

You say it cannot be done on labor issues? Well, in the past we have. We passed a mine safety bill through here in less than 6 weeks, and it passed unanimously in the Senate, and it passed unanimously in the House. That is how we did it. We did it through the committee process. Now, that was the first change in mining law in 28 years, but it was done cooperatively, and it was done through the committee process.

This one has, I guess, purposely circumvented the regular order of the Senate and its committee process because the scrutiny of that process would expose some multiple flaws in the legislation. We are going to have some amendments that will point out what some of the flaws are in this legislation. Now, it is very difficult to do it here. I have to put in an amendment, and we kind of vote it up or we vote it down. We cannot go off and work it out so it is agreeable to both sides. It is a difficult process, especially when you involve 100 people with it. It is much easier to do it in committee.

So we have this bill, and once again we are going to play the election-year spin, going to do sound bites, probably do a lot of press. But I suspect the result may be the same as other things that did not go through committee.

Now, their calculation is simple: Since this bill involves unions that organize among police and firefighters, they will continue to simply claim that anyone who opposes this bill is against police and firefighters. You have already heard it.

Let's address that calculated untruth first. There is no one I know of—Republican or Democrat, supporter or opponent of this bill—who does not respect and value the work and dedication of our police, our firefighters, and other first responders. Their contributions to our communities are immeasurable, and our support for them is unwavering. However, this bill provides no benefit to any police officer, firefighter, or first responder. It does not provide a dime in Federal money to any State, city, or town to hire or to train or to equip any additional public safety personnel. In fact, it only imposes costs that will make that result less likely.

The bill does not contain a dime of Federal money or a word of language that would increase the pay or benefits of any firefighter, police officer or first responder or that would enhance their working conditions or that would make their job safer or make their retirement more secure. It only imposes totally unfunded costs on States, cities, and towns that will make those rules less—not more—likely.

Plain and simple, the only direct beneficiaries of this legislation are labor unions. This bill does nothing more than open new markets for unions, and it provides them with the opportunity for increased revenue from new dues-paying members. This bill does nothing for any police officer, firefighter or first responder, except to provide them with the dubious opportunity to share a portion of their paycheck with the labor union.

The real truth is there is absolutely nothing inconsistent about being fully supportive of our local police and firefighters and first responders and totally opposed to this bill. A vote against this bill is not a vote against first responders. Proponents of this bill would serve both the debate and themselves better by abandoning any absurd claims to the contrary. The public is simply not that gullible, and I think the public is fed up with a Congress that transparently panders to special interests, while trying to tell the rest of the world they are acting in everybody's interests. The old song is out of tune, but as long as some continue to sing it, there shouldn't be any surprise about the fact that the public opinion of Congress is at an all-time low.

Let me now turn for a moment to some of the serious and fundamental problems with this legislation. Over 70 years ago, the Congress passed what is now referred to as the National Labor Relations Act. That legislation has been amended numerous times over the many decades of existence, and it has become universally recognized as the embodiment of our national labor policy. A hallmark of that policy for eight decades has been the well-reasoned principle that the employment and

labor relations between a State, city or town and its own employees should not be a matter of Federal law, but a matter of local law. That bedrock principle is not only rooted in our national labor policy; it is firmly fixed in our Constitution and our traditions of federalism. For more than 70 years, Congress has repeatedly and consistently excluded State and local labor relations from Federal control and intervention. Yet today the proponents of this bill seek to overturn this hallmark principle and to radically change decades of unbroken Federal law and policy. The enormity of this change is only matched by the prospect that it could occur in the wake of an appalling lack of thought, total disregard for the processes of the Senate, and complete absence of any meaningful opportunity for rational debate.

This body has before it a bill that would overturn more than 70 years of unbroken precedent and law. It would raise profound constitutional issues. It would overturn law in a majority of States—in a majority of States—and completely reverse the fundamental and founding principle of our national labor policy. You would think the Senate would consider such a bill only after careful examination and due deliberation. But if you do think that way, sadly, you are wrong. This legislation, as I said, has not had a Senate committee hearing or markup this Congress. I looked back 4 years. I could not find a single hearing or markup on this bill. There has been no meaningful exploration by the HELP Committee this Congress of the important issues that this legislation implicates. This bill grants enormous power over States to a virtually unknown Federal agency that will make critical decisions about these people. Yet we have never so much as asked a representative sampling of State officials about their views, nor have we ever informally asked the Federal agency involved if it feels up to the job we are about to impose on it. These shortcomings alone are ample proof that this bill is being pushed not because it is good policy but only because we see it as expedient politics in an election year.

This bill would require that every State, every city, and every town with more than 5,000 residents would open its police, firefighters, and first responders to unionization. It would impose as Federal mandate—not in the absence of any State consideration of this issue but in direct opposition to the legislative will of several States.

Proponents of this legislation have attempted to maintain the fiction that it actually does little to disturb State laws—a good way to pass a bill, I guess, but not true. It is simply not the case. Within the last 2 legislative sessions, some 13 States have officially considered and rejected legislative proposals similar to the law that would be federally imposed under H.R. 980. The proponents of this legislation have attempted to maintain the fiction that it wouldn't disturb State laws. Nothing could be further from the truth. Every expert who has reviewed this law has concluded it is clearly in conflict with the current law in at least 22 States, and the chart shows the 22 States. Some believe the number is as high as 26, and even the bill proponents freely concede it is at least 21. All of these States, their citizens, and their legislatures have expressly considered all the issues raised in this bill and have decided on a different approach—a different approach—than what would be required under this bill. Some States have decided to use meet-and-confer laws. Some have placed limits on the enforceability of agreements. Some have limited the subjects of bargaining. Some have made the issue one of local option, and some have decided to limit bargaining by employee function.

States, cities, and towns have done what they think best to provide for the safety and welfare of their own citizens in developing their labor relations policy for their own public safety employees. Yet we propose to clearly overturn the democratic judgment of at least 22 States through this legislation.

Let's be clear. We would take this action not because States have not acted; that is not the case. All these States made a conscious, democratic decision about what is best for their citizens. In fact, some 16 of these States have considered and rejected laws similar to H.R. 980 within the last few years.

Now, the impact, however, doesn't end there. Experts who have reviewed this legislation and existing State laws have identified at least 12 States where this bill would raise serious legal questions about one or more aspects of their existing collective bargaining law. You can see those filled in on the chart. These are States that supposedly have full collective bargaining statutes. Remember: The question of whether an existing State law complies with the requirements of H.R. 980 is going to be figured out later by a little-known Federal agency—the Federal Labor Relations Authority—that is devoid of any experience in State labor relations and isn't accountable to a single State government. I am sure all the technical and legal issues left unclear by this bill, which bear on whether a State law complies, will keep an awful lot of lawyers busy for a long time and guarantee a huge expansion of the Federal labor relations authority.

Now, the effect of this bill, however, goes beyond the States where the law is clearly overturned and where it is probably overturned and where the lawyers will fight about whether it is overturned. By federalizing State labor relations, this bill will affect every State, city, and town in the country. As a matter of State law, States have the authority to effectively take items off the union bargaining table. Many States with collective bargaining laws already do this, particularly in the area of public safety. Manning and staffing levels, training and job requirements, deadly force rules, drug testing, merit pay, job requirements, and promotion are a few of the examples of the terms and conditions of employment which must be bargained but could be exempted from bargaining by State action or a law. Now, once you federalize this law, States will lose that authority.

Look closely at both the Senate and the House language of this bill. It specifically lists only three things a State can exempt or take off the bargaining table: pension, retirement benefits, and in one version, health insurance. Everything else is on the table. That will be the Federal law over which a State can do nothing.

This is a critical problem for every State. States can't be responsible for the safety of their citizens when the Federal Government takes away the authority they need to accomplish the job. Here is one example. Suppose a State decides to implement mandatory drug testing for public safety officers. It can't just do that under Federal law if H.R. 980 passes. Any change such as that would require bargaining. Why would we ever require that any State, city or town bargain or horse trade over matters of public safety?

If you don't think this is a real problem, you need only look at today's paper. The city of Boston has for years sought to negotiate a drug-testing provision with its public safety union. Despite incidents of documented and suspected drug use by Active-Duty personnel, the city has not been able to implement a program. We have seen the same pattern reflected in the utterly shameful situation in Major League Baseball and the inability to achieve any meaningful resolution, despite years and years and years of collective bargaining. Now, here is the difference: Baseball is a game; public safety isn't.

So let us be completely clear about what we propose doing with this legislation. Any vote that advances this bill is a vote to overturn the law and the democratic will of citizens of a near majority of our States. Let me say that again. Any vote that advances this bill is a vote to overturn the law and the democratic will of the citizens of a near majority of our States to create unnecessary question and litigation over the validity of law in many other States and to forever tie the hands and limit the authority of every State to protect the safety of its citizens as it sees best. This legislation is not only directly contrary to over 70 years of Federal labor policy; it further violates the most fundamental, centuries-long principles of federalism and most likely runs completely afoul of the U.S. Constitution to boot.

With all this in mind, we should be asking ourselves: What price is this Congress willing to pay in an effort to ingratiate itself to organized labor?

Earlier this year, Congress transparently pandered to the special interests of organized labor and came perilously close to depriving workers of their democratic right to a secret ballot in deciding the question of unionization. Now we are at it again. This time, however, the price of congressional pandering is the sovereign authority of States and the integrity of their democratic process.

Since even these compelling facts are unlikely to stand in the way of politics, we need to look at the legislation itself. Since it has not been discussed and has not been marked up in the committee of jurisdiction, I suppose at least a few moments of legislative consideration is better than none at all.

In no particular order, here are a few of the multiple and fatal drafting and policy problems of this bill:

First, this bill is the height of hypocrisy by the Federal Government. This bill would require States, cities, and towns over 5,000 to provide full collective bargaining for all their public safety employees. However, while requiring this of States, cities, and towns, the Federal Government would continue to exempt itself from any collective bargaining obligation with regard to many of its public safety employees.

Let's see. We are going to tell States, cities, and towns what to do, but we don't tell ourselves what to do. That sounds like hypocrisy to me.

Second, this law would require States to bargain over wages of their covered employees. However, the Federal Government routinely exempts itself from bargaining over wages with its employees.

I wonder how many Senators bargain with their staff? Moreover, this bill would severely limit—in fact, virtually eliminate—the right of State governments to determine the appropriate subjects for bargaining with their employees—a right fully retained by the Federal Government with regard to its employees.

Third, this legislation forces collective bargaining on States but doesn't require or ensure fundamental employee rights. For example, Federal law preserves the right of the workers in the private sector to decide the issue of unionization by secret ballot. However, this legislation, which imposes collective bargaining on unwilling States, cities, towns, and their employees, not only fails to guarantee the right to a secret ballot in union elections, it specifically ratifies and approves State laws that strip public sector workers from this fundamental democratic right.

Fourth, this legislation is a gift to organized labor that comes with none of the obligations or safeguards of other federally mandated bargaining. Unionized workers, under current Federal law, have the right to information about their union's finances, and those unions must publicly report on their finances every year. This bill would force unions on States, cities, and towns but would not require union financial transparency or require that workers have access to this financial data.

Fifth, this is the gift that keeps on giving. Not only is there no requirement about union financial reporting and disclosure in this bill, this bill also fails to contain any guarantees to the workers about how their union dues money can be spent. For example, workers unionized under current Federal law cannot be required to contribute to a union's favorite political causes. This bill, which forces collective bargaining on States, cities, and towns that have rejected it contains no such guarantee.

Sixth, this bill would not only fail to provide any meaningful guarantee against the disruption of municipal services because of labor disputes, it practically guarantees the right of unions to cause those disruptions. The bill purports to have no strike guarantee. However, it goes to great pains to say it is not a strike when a public safety officer refuses ''to carry out services that are not mandatory conditions'' of their employment.

What does that mean? Who decides which duties of a firefighter or police officer or public safety officer—that is a pretty broad title—are ''mandatory''? This provision appears to be nothing more than legislative code words specifically authorizing ''work to rule'' and a host of other types of disruptive job actions that have become all too familiar among public school teacher unions. This bill forces unions on unwilling cities and towns, and then gives those unions a legislative green light to disrupt municipal services.

Finally, there is the enormous problem in this legislation that relates to volunteer firefighters. It is no secret that the International Association of Firefighters, the principal firefighter union in this country, actively opposes the use of voluntary fire departments. It has consistently sought to prevent its members from volunteering their services. Its own union constitution provides for the discipline, fining, or discharge of members who do. The most effective way this union has to prohibit volunteering or, as they refer to it, ''two-hatting,'' is the union contract clause to that effect. They have sought and obtained this kind of clause in union contracts across the country and want to make sure they can continue to do so under H.R. 980.

Now, there is a clause in there that may be referred to. If you look at it, it is ''weasel'' words. It does not do what it is purported to do, and it will eliminate volunteer fire departments.

Members are being told this problem with the bill has been ''fixed.'' That is wrong. It is not. If you really wanted to make sure unions had no authority to kill off volunteer firefighting, you could write a plain provision that does exactly that. Instead, both the House and Senate versions use convoluted, double negative, lawyer speak in a deceptive effort to claim that the problem is solved. I guarantee you that it is not. Once you unwind the language, you will find both the House and Senate versions of the bill leave the door wide open to an all-out union assault on the use of volunteer firefighters.

In 25 States, volunteer firefighters account for all or most of the staffing in more than 90 percent of the departments statewide. In 14 States, volunteers account for all or most of the staffing in more than 80 percent of the departments. With just two exceptions, in the remaining 11 States, volunteers account for all or most of the staffing in more than 60 percent of the departments. No State can provide fire protection in its cities, towns, and rural districts without volunteer firefighters. Anyone who even considers advancing this legislation ought to be completely sure that it could not have a negative effect in their State.

These problems represent only the tip of the iceberg. This bill is quite simply a prime example of terrible policy being badly executed, without process.

Mr. President, I want to bring up another point regarding this legislation that is also of critical importance. This bill imposes an enormous unfunded Federal mandate on States, cities, and towns across the country. I want to take a minute and address this serious concern not only from my current position as a Senator but from my former position as mayor of Gillette, WY, a city of about 22,000 people.

As I look around the Chamber, not many here have had any experience with trying to balance the budget of a city or town. So I guess we should understand why they would pay so little attention to the very real financial consequences of their actions on thousands of municipalities. They ought to.

Just last week, after teetering on the brink of insolvency, the city of Vallejo, CA, finally declared bankruptcy. Everyone has acknowledged that the cause of Vallejo's financial problems was plain and simple: The spiraling costs of their police and firefighter labor agreements.

Vallejo is not alone. In the last few years, a number of other cities and towns have teetered on the brink or actually have been forced into bankruptcy: McCall, ID; Toledo, OH; Marion, MS; Moffet, OK; Duluth, MN—just to name a few.

Now, what we usually don't realize in this body is those bodies don't get to print their own money. They actually have to work with the revenue that comes in. Most of them have severe limitations on the ability to raise money. They could not raise taxes if they wanted to. So the revenue is limited, but the costs go up. What do you do?

Here is the reality. Without regard to pay or benefits, just the administrative costs alone of collective bargaining represent a very significant line item

that Congress now proposes to force on States, cities, and towns. Towns, particularly small ones, that currently don't have the resources to negotiate and administer multiple collective bargaining agreements must now hire and pay for these additional services. And this isn't just going to be one; it is multiple.

Towns and cities that do not devote the long hours of municipal time to the complicated process of bargaining and overseeing multiple union contracts and to administering contract provisions and resolving disputes under a collective bargaining system will be required to spend that time. Nobody should be fooled. Those additional manpower and manhour requirements are enormously costly and burdensome. This bill would impose those costs by Federal mandate but would not provide a single penny of Federal money to help offset those costs. Make no mistake, the Congress is proposing to buy organized labor a free lunch and stick America's small towns with the bill.

As a former mayor and as the only accountant in the Senate, I remind my colleagues about the cold realities of municipal finance. If you increase municipal costs, you have only two ways to meet those increased costs: You either increase revenues or decrease services. This bill will unquestionably place many municipalities in that difficult position of choosing between raising State and local taxes, which they probably would not have the capability to do, or decreasing and eliminating local municipal services, which they don't want to do.

Are the Members of this body so completely out of touch with the real needs of their constituents and the real fiscal problems that their cities and towns face every day that they would impose these unnecessary costs and burdens? With stagnant or declining property values and an endless parade of increasingly fixed costs, don't our cities and towns have enough on their plate without the Federal Government imposing yet another cost on them?

This isn't an imaginary problem. Remember Vallejo, CA, and the other cities and towns I mentioned across the country that make it clear that this problem is very real.

For all these reasons, Mr. President, I am opposed to H.R. 980. I urge my colleagues to vote no on this legislation. Hopefully, we will have a chance to make some corrections to this bill—particularly on the flaws that I have pointed out.

I will just recap. It didn't go to committee. It is an unprecedented intrusion by the Federal Government. It directly overturns existing laws in 22 States. It casts doubt on a dozen more. Sixteen States have recently considered and rejected legislation very much like this. It calls into question the constitutionality. We had no hearing or markup. It creates unfunded mandates. It would impose costs on small towns.

I don't know how many of you think 5,000 is a big city. Actually, in Wyoming it is; 3,500 is considered a first-class city. But 5,000 is not a very big town, and there isn't as much expertise.

I mention that another piece of the bill says the requirement is imposed when there are 25 employees. It doesn't say 25 public safety employees. It doesn't say 25 people who would be covered by this. It says a flat 25. I suspect there are a lot smaller towns than 5,000 that have 25 employees. That is a pretty small amount. That is not the same as public safety employees. So they either have to cut services or raise taxes or the city is going into bankruptcy.

The bill doesn't contain any worker protection for them getting to vote on whether they will have a union, and it puts in charge a little known Federal agency. Again, it is pretty hypocritical of us. We have not imposed this on the Federal Government, but we are willing to impose it on the little places back home. I think we will regret it, and it will remind us of the mistake we made here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I see my friend from Utah. We did have three speakers on our side, and we are going to do the best we can to balance it. I think the Senator's side is next. How long does the Senator from Utah wish to speak? Then I will ask that the Senator from New York to follow.

Mr. HATCH. I can probably do it in less than 10 minutes or around that.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senator from New Jersey be recognized for 20 minutes following Senator HATCH.

The PRESIDING OFFICER (Mr. SANDERS). Without objection, it is so ordered.

AMENDMENT NO. 4755 TO AMENDMENT NO. 4751

Mr. HATCH. Mr. President, I believe my amendment No. 4755 is at the desk. I call it up and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 4755.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for a public safety officer bill of rights)

At the end of section 2, add the following:

(5) Public safety officers frequently endanger their own lives to protect the rights of individuals in their communities. In return, each officer deserves the optimal protection of his or her own rights under the law.

(6) The health and safety of the Nation and the best interests of public security are furthered when employees are assured that their collective bargaining representatives have been selected in a free, fair and democratic manner.

(7) An employee whose wages are subject to compulsory assessment for any purpose not supported or authorized by such employee is susceptible to job dissatisfaction. Job dissatisfaction negatively affects job performance, and, in the case of public safety officers, the welfare of the general public.

SEC. 2A. PUBLIC SAFETY OFFICER BILL OF RIGHTS.

(a) IN GENERAL.—A State law described in section 4(a) shall—

(1) provide for the selection of an exclusive bargaining representative by public safety officer employees only through the use of a democratic, government-supervised, secret ballot election upon the request of the employer or any affected employee;

(2) ensure that public safety employers recognize the employees' labor organization, freely chosen by a majority of the employees pursuant to a law that provides the democratic safeguards set forth in paragraph (1), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding; and

(3) provide that—

(A) no public safety officer shall, as a condition of employment, be required to pay any amount in dues or fees to any labor organization for any purpose other than the direct and demonstrable costs associated with collective bargaining; and

(B) a labor organization shall not collect from any public safety officer any additional amount without full disclosure of the intended and actual use of such funds, and without the public safety officer's written consent.

(b) APPLICABILITY OF DISCLOSURE REQUIREMENTS.—Notwithstanding any other provision of law, any labor organization that represents or seeks to represent public safety officers under State law or this Act, or in accordance with regulations promulgated by the Federal Labor Relations Authority, shall be subject to the requirements of title II of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 432 et seq.) as if such public safety labor organization was a labor organization defined in section 3(i) of such Act (29 U.S.C. 402(i)).

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

Mr. HATCH. Mr. President, many of my colleagues have spoken about the tremendous service America's public safety employees give to the public. I could not agree more. Any given day one of these officers may be asked to put his or her life on the line, and they will do so willingly and courageously. I agree with my colleagues that individuals who choose these careers deserve respect, gratitude, and special treatment. But the bill we are considering today would actually result in diminishing the rights of public safety employees who are not currently unionized.

Once a workforce is unionized, even employees who don't wish to be part of a union will have pay deducted from their paychecks, spent in a manner outside of their control, and they will have very little ability to question or alter the legal representation that has been established with or without their support.

My amendment seeks merely to balance that diminution of self-determination by establishing a Public Employee Bill of Rights.

This amendment would do three things: Guarantee the right to vote by

secret ballot, limit the right of public unions' dues collection authority to nonpolitical uses, and allow financial transparency.

By ensuring that public safety employees in all States have the right to vote on whether to unionize by secret ballot, my amendment guarantees for public safety employees that same right private employees now have. In a democratic society, nothing is more sacred than the right to vote, and it is undeniable that nothing ensures truly free choice more than the use of a private ballot.

The possibility of coercive or threatening behavior toward employees who may not wish to form a union is even more concerning in the context of public safety employees who rely on coworkers to reduce the deadly risks they face routinely in the course of their important work.

The amendment would also limit the right of public unions' dues collection authority to nonpolitical uses. Those who choose public service often accept lower pay than they might make in the private sector because they are dedicated to public service. Let's not insult that choice by allowing labor bosses to take money from that paycheck and spend it on purely political causes the employee does not support.

I believe public employees should have the same protections from fraud and abuse as private employees. My amendment would empower public employees by allowing them to observe how their dues are being spent and the other financial dealings of their unions. It does this by bringing public unions under the requirements of the Labor Management Reporting and Disclosure Act, a 1959 law enacted with bipartisan support, including then-Senator John F. Kennedy.

Public employees who pay union dues, especially those who are compelled to do so against their wishes, are no less entitled to financial transparency and fraud protections than the private sector employees covered under the law today.

I urge my colleagues to support this amendment. It is a simple amendment. It provides for protections that ought to be there. If this bill should pass, these protections, at a minimum, ought to be part of this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we will recognize the Senator from New Jersey, but if he will yield a minute.

Mr. MENENDEZ. I will be happy to yield to the Senator.

Mr. KENNEDY. Mr. President, we want to permit others to speak. I will speak in a short time in response to my friend and colleague from Wyoming. If this legislation did what he suggested it did, I would not be a sponsor or support the legislation either. I will go into some detail in explaining what the legislation does do and what it doesn't do.

With regard to the Senator from Utah, this issue about having a secret ballot or nonsecret ballot, we leave up to the States. Rather than trying to mandate that—a lot has been talked about giving the States options as to how to proceed. We say on both items the Senator addressed that the States are the ones that should make the judgment and determinations.

We will have a longer time to debate this issue.

I thank the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, let me first say I appreciate the Senator from Massachusetts and his leadership in this regard. I have come to the floor not only to acknowledge his leadership on this critical piece of legislation but to speak strongly in support of the Public Safety Employer-Employee Cooperation Act. For me, this bill is about protecting some of the most basic fundamental rights of America's bravest and finest public servants. Our Nation's first responders put their lives on the line every day. That sometimes only comes vividly to us when we lose one of those brave men and women and their lives are lost in the line of duty, but the reality is they are at risk every day, risking everything they have to protect us, to protect complete strangers, to protect their communities. At a moment's notice, they are on call to respond to natural and manmade disasters of every size, scope, and severity. These men and women are firefighters, emergency management technicians, police officers, and first responders who are prepared day in and day out to go to any length to save the life of a complete stranger.

They have one goal: to keep others safe. In those moments, they don't think about anything else. As they rush to respond to a fire, they are not thinking about their job security. As they risk their life in a collapsing building, they are not doing it in return for a higher wage. As they put themselves into harm's way, they are not thinking about the benefits their family might receive if the worst should happen.

In 2006, more than 75,000 police officers were injured in the line of duty, and last year 140 police officers paid the ultimate price and lost their lives in the line of duty. In 2006, more than 83,000 firefighters were injured in the line of duty, and 115 firefighters paid the ultimate price. This year alone, another 45 have lost their lives.

Today we have an opportunity to thank these selfless heroes, not just with our words but with our actions. We have an opportunity to guarantee the rights of those who work to protect our lives and safety every day. In short, we have an opportunity to fix what is wrong and do what is right.

This legislation simply gives first responders the same right that virtually all Americans enjoy: the right to collectively bargain and have a voice about their working conditions, to come together in common cause to achieve a better standard.

A majority of the States already confer this right of collective bargaining, including my home State of New Jersey. This bill would give public safety officers across the country that right. It would ensure if they choose—if they choose—they can join a union and bargain over wages, hours, and working conditions.

I was a former mayor. I did not have the challenges of having a unionized police force and firefighting force that ultimately worked in contradiction to the interests of my municipality. I did not. Certainly, in the urbanized context in which I was, that was a bigger challenge than others. So the reality is I do not believe the right to collectively organize automatically means the dire consequences that some have portrayed as it relates to this legislation.

In New Jersey, we recognize how important it is for first responders to have a strong working relationship with the municipalities they serve. We recognize these public safety officers deserve the dignity and respect to have a say in their wages, hours, and working conditions. And we recognize that when public safety employers and employees work together, the results serve us extremely well.

Some of my colleagues will try to argue this legislation will hurt volunteer firefighters by limiting the amount of time professionals can volunteer while off duty. We have volunteer firefighters in New Jersey alongside those who are organized at the same time, and that has not simply been the case. This is simply incorrect, as the legislation specifically forbids any State from putting limits on professional firefighters who volunteer during their off-duty hours.

Others are saying this legislation could effectively repeal State right-to-work laws. Again, this legislation specifically allows States to enforce right-to-work laws. The bill makes no change in States that have right-to-work laws and would not prevent any other States from adopting new right-to-work laws.

Let's be honest about what the bill actually does say. It does not dictate how States should approach this issue. The bill only requires local governments to engage in negotiations if workers choose to join a union. It respects the authority of local legislative bodies to approve or disapprove funding for any negotiated agreement. The bill only affects States that do not already provide their public safety officers with the right to bargain collectively. States that do not have these protections can choose to establish their own collective bargaining systems.

I hope we realize what is at stake here. Beyond fairness, which is something which is fundamentally important, particularly for those who risk

their lives every day, we are talking about safety. In States where there are not collective bargaining protections for workers, fatalities are 39 percent higher. That is a fact. In States where there is not collective bargaining opportunities, fatalities are 39 percent higher.

The fact is, greater protections for workers lead to better safety conditions. We have seen this time and time again in which the negotiation—some people think it is only about money. It is not just about money. When I was a mayor, some of the most significant negotiations were about the standard under which you operated, which was not only important as it related to the firefighter or the police officer but was important as it related to the response time and the ability to perform the services that ultimately saved property and saved lives.

Some people think this is all about simply money and making more and having better benefits. A lot of it is about working conditions and the nature of how one, in fact, applies their profession in a way that not only saves lives of those who serve—firefighters and police officers—but also saves the lives of those they were sworn to protect because they had a better system—breathing apparatus, having the technology to enter into a fire and being able to detect someone who has been immobilized. Often that negotiation was not about money but about can we have this equipment that is essential for us to perform our duty in behalf of those we are sworn to serve.

It seems to me we have to understand there is a direct correlation between the benefits that often are on the negotiating table to citizens, not only to those who serve but to citizens in terms of having greater lifesaving capabilities—for me as a mayor, that was often what I heard the negotiations being about. I thought it was exemplary, that we were negotiating over how do we better save lives at the end of the day.

Any time we can have the reality that more lives are saved because, in fact, the collective bargaining system allows us to create circumstances under which not only the workplace and the profession, but the lives of the citizens of those communities are saved, is worthy of achieving.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MENENDEZ. I will be happy to yield.

Mr. KENNEDY. I always appreciate hearing from the Senator from New Jersey. I hope our colleagues will listen carefully to what the Senator from New Jersey has said because he comes to this debate as a former mayor. Mayors, as we all know, have had special relationships, obviously, with firefighters and police on the firing line. So when I hear the Senator from New Jersey talk about that value as a former mayor, he can see the value in terms of safety and security for the people in that community as a result of this legislation in terms of cooperative discussions and arrangements. That says a good deal.

Some have presented a situation—which, of course, is not accurate—where this legislation is going to be imposing extraordinary hardships, additional burdens, and unfunded mandates on mayors, particularly in smaller communities, and do a great disservice, actually, in terms of the whole relationship between the public safety officers and the security of the community.

So I particularly value his comments on this aspect of the bill. There are obviously a number of other important aspects of it. But as it relates to small towns, I forget the actual population or the size of the community, the city that the good Senator was the mayor of, but, in any event, if he could elaborate on his views about this legislation and its importance to mayors as well as to firefighters, I think it would be very helpful because he speaks from very practical experience.

Mr. MENENDEZ. Well, I appreciate the comments of the Senator from Massachusetts. We had about 60,000 people in the community at the time. But it was a challenge, 60,000 people in 1.1 square miles, the most densely populated city in the Nation.

So the uniqueness of some of those challenges of having police and firefighters be able to respond was very much—although the population was high, the geography was small. So we had a much smaller sense of the response times and the necessities that were demanded.

But I also was part of the mayors' coalition in the State of New Jersey at the time. That coalition represented urban, suburban, rural mayors. Throughout the State of New Jersey, they had obviously the right for collective bargaining. To be honest with you, I don't recall any of those mayors saying collective bargaining was the bane of their existence as it related to being able to produce the services.

I think the reality is that what we do through this process is we build strong partnerships between first responders and the cities and the States in which they serve. When public safety employers and employees work together, it not only reduces worker fatalities, and they have a consequence, even in a noncollective bargaining system—there obviously clearly are claims against the municipality—but above all, it improves the quality of the services and the delivery of those services at the end of the day.

I believe in a post-September 11 world, having resided in a State that lost hundreds of people on that fateful day and in a community that saw several hundred lost on that fateful day, that these are individuals who now play a critical role far beyond what we envisioned originally or what their history has been, which is certainly producing the safety in our communities from the normal challenges of crime, burglaries, thefts, robberies or assaults, or maybe even more minor roles of traffic violations.

These first responders across the landscape of the country face a much heightened responsibility. They play a critical role in homeland security. So by enhancing cooperation between those public safety employers and employees, I believe the legislation helps to ensure that vital public services run as smoothly as possible.

It is interesting that every New York City firefighter and police officer who responded to the disaster at the World Trade Center on September 11, 2001, was a union member under a collective bargaining agreement.

I believe their ability to have been integrated in their negotiations with the cities about all aspects of the delivery of their services gave some of the most incredible response on that fateful day.

There is not a reason why we cannot see that take place across the country in terms of readiness. So I believe that if we look at the bill, it only requires local governments to engage in negotiations. If workers choose to join a union, that is a rather low threshold. Again, States that do not have these protections can choose to establish their own collective bargaining systems. So I hope we realize what is at stake—that safety is incredibly at stake.

Twenty-nine States, along with the District of Columbia, currently guarantee all public safety workers the fundamental right of collective bargaining. Now, with the House of Representatives overwhelmingly—overwhelmingly—approving companion legislation almost a year ago, it is hard to believe the Senate will not act.

In fact, it is time for the Senate to act and to respond. With 80,000 firefighters and 76,000 police officers being injured in the line of duty each year, the time has come to ensure that these workers are protected. It is time to put our votes where our values are. It is interesting to me how very often those of us who serve in this body and the other body want to be there with police and firefighters. We want to take our picture with them, acknowledge them. We appreciate their services.

We talk about their heroism. But the time for all that talk to be meaningful is when you come to the Senate and you cast a vote that is to simply have a right that is fundamentally basic, that we have believed it to be truly an American right. And so all those pictures, all those speeches, it is time to put that vote to work. It is time to put our votes where our values are. It is time to uphold the rights of those who provide for our safety. It is time we show how much we appreciate the dedication and bravery of our Nation's heroes who take this risk every day.

Mr. KENNEDY. Would the Senator yield for another question?

Mr. MENENDEZ. I would be happy to yield.

Mr. KENNEDY. I think all of us in this body know the good Senator represents the State of New Jersey in this case, which had suffered extraordinary loss at the time of 9/11. A number of those extraordinary firefighters lived in the Senator's State. So when he speaks about these issues, talking about the courage and the bravery of these firefighters, he talks about it with a good deal of background and understanding and an enormous sense of compassion for having gone through with many of these families their loss.

That is why, I believe, the Senator in his strong support for this legislation, as a former mayor and also someone who knows and has personal experience with these firefighters, can speak so authoritatively about what this legislation can mean in terms of the safety and security of the community and also with regard to the safety and security of the firefighters, police officers, first responders.

Does the Senator agree with me that those who were not lost on that day but in a very real sense brothers and sisters of the first responders who were lost on 9/11, many of whom were lost in his district, do they feel that legislation will help and assist providing safety and security to the people, whether it is in New Jersey, or in the communities they represent, and that they are supporting this legislation because they are very hopeful and prayerful we will never again face that kind of tragedy we faced but that they believe this legislation can help provide additional safety and security for their communities and for their fellow citizens?

Mr. MENENDEZ. I appreciate the question of the Senator from Massachusetts and the chairman of the committee. The answer is, yes, I say to the Senator. The fact is that New Jerseyans have this right. Yet every year when I have had visits from firefighters and police officers, they have talked about this legislation because they understand, even though they already have the right, they never want to visit another State for the loss of one of their fellows in service who have committed the ultimate sacrifice.

They understand very powerfully that the ability to negotiate, as I suggested earlier, is not only about salaries. Look, you do not do this type of work for a salary. You do not do this type of work for a pension. You do not do this type of work for certain benefits. You do this type of work because you are committed to the proposition that you are willing to sacrifice your life in return for saving someone else's, and that is incredibly important.

Finally, the reality is, I found it interesting in those negotiations that I used to have as a mayor, very often, as I said before about the ability to perform the job, because it was with the mission in mind and the oath taken to save lives, that more often was on the table than the question simply about salaries or pensions or benefits. They know their interaction with their governmental bodies in performing and having a service goes far beyond that which may exist in those States that do not permit that interaction through the collective bargaining system, that in fact lives of their fellow officers can be saved, their fellow police officers and, most importantly, the lives of their fellow citizens. That is why they have come and advocated for this legislation.

Even though they already enjoy the benefit, they understand the potential benefits for a much broader benefit for a much broader universe.

Mr. KENNEDY. I see other Senators wish to address the Senate. We have been reminded about how long we have been considering this legislation and how important it is that we do it at the present time.

As the Senator knows, this bill was initially introduced by our former colleague, Senator Mike Dewine, in 1999. The Senate even voted on it in 2002. We had a HELP Committee hearing on this same legislation in the 106th Congress in 2001.

So many of these brave responders have waited for a long time. This has gone on for some 8 years without coming to completion. It is a matter that has been before this body as well during this Congress.

So would the Senator not agree with me, finally, that the time is now to take action? This is the time. We are talking about homeland security; we are talking about first responders; we are talking about those firefighters and police officers. Now is the time to permit them to be fully engaged and involved in further advancing the safety and security of our colleagues.

Would the Senator not agree with me that this is a significant matter that we have full awareness of and knowledge of and should be ready to take action on?

Mr. MENENDEZ. I agree fully with Senator KENNEDY, that in fact, it is past time. Senator Dewine was a Republican and obviously saw the wisdom of this legislation. It is even more appropriate today. We face challenges unlike any other time in our history as it relates to what police and firefighters are called to do, to go far beyond their traditional roles. They need to have a voice as it relates to how they respond to these new challenges and to their new roles.

Finally, I would simply say, when they negotiated, I know New York City firefighters did not say: Well, we do not have enough men on the rig according to our contract so we are not going to respond on September 11 or enough police officers to say we do not have two-men cars patrolling so we are not going to respond.

That has never been the case of those who serve. They have an oath and calling and they live up to that calling every day. We need to live up to our ultimate calling in the Senate to respond to the challenges they face each and every day to give them the right and the dignity they deserve to be able to negotiate not only for themselves and their families but for the well-being of the citizens they serve.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator the Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 4760 TO AMENDMENT NO. 4751

Mr. ALEXANDER. I send to the desk an amendment and ask for its immediate consideration. I believe Senator KENNEDY has seen a copy of it.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Tennessee [Mr. ALEXANDER] proposes an amendment numbered 4760 to amendment No. 4751

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment (No. 4760) is as follows:

(Purpose: To guarantee public safety and local control of taxes and spending)

At the appropriate place, insert the following:

SEC. ____. GUARANTEEING PUBLIC SAFETY AND LOCAL CONTROL OF TAXES AND SPENDING.

Notwithstanding any State law or regulation issued under section 5, no collective-bargaining obligation may be imposed on any political subdivision or any public safety employer, and no contractual provision may be imposed on any political subdivision or public safety employer, if either the principal administrative officer of such public safety employer, or the chief elected official of such political subdivision certifies that the obligation, or any provision would be contrary to the best interests of public safety; or would result in any increase in local taxes, or would result in any decrease in the level of public safety or other municipal services.

Mr. ALEXANDER. Mr. President, this is an amendment to the pending legislation which would give the mayors and chief administrative officers of cities and States the opportunity to opt out if they conclude that this law would be, in their circumstances, contrary to the best interest of public safety, No. 1, or would result in an increase in local taxes or a decrease in the level of public safety or other municipal service. In other words, if this legislation amounted to an unfunded Federal mandate, it would not be effective.

Let me speak to the unfunded mandate aspect of this legislation and its interference with the prerogative of States. Those are two different ideas and two very important ideas in the American fabric. Let me begin by saying we are talking about some of the most honored men and women in our country—firefighters, policemen, and other public safety workers. That is true in Tennessee as well. We have over

700 fire departments, and we were grateful for the heroism of firefighters everywhere on 9/11. Local fire fighters in Tennessee and across the Southeast were among the first on the scene after the deadly tornadoes earlier this year. We are deeply grateful for that.

Charles Martinez from Maryville, my hometown, was named Tennessee firefighter of the year in 2004 for giving his kidney to a fellow firefighter. We deeply admire him for that.

In 2006, Lieutenant Terrance Andrews of Chattanooga was named Tennessee firefighter of the year for his dramatic rescue during a house fire in which he pulled the security bars away from a window to save Virginia Humphrey. Ms. Humphrey was injured and spent some time in a hospital, but she fully recovered. I admire Lieutenant Terrance Andrews' bravery.

Another example, firefighter Shane Daughetee of the Highway 58 Volunteer Fire Department in Chattanooga died in the line of duty in January of last year when he was trying to rescue a family. We mourn Shane Daughetee's death and admire the bravery of that individual. All of us admire and respect the bravery of firefighters and other public safety employees in all our communities. But that is not what this legislation is about.

A better name for this bill would be the ''Washington knows best unfunded mandate act.'' In the name of some of the men and women we respect the most, our firefighters, policemen, and others, we are about to commit two of Washington's worst and most flagrant sins. That is, No. 1, to take away from States and communities their right to decide their own labor relations, what they ought to be; and, No. 2, to pass an expensive piece of legislation, make it sound good, take credit for it, and then send the bill home to mayors, Governors, and local officials who will have to either raise taxes or cut services to deal with it. It is an unfunded mandate in that sense.

Current Supreme Court law suggests that the tenth amendment permits the Federal Government to require State compliance with the general regulatory scheme but does not permit the Federal government to require States in their sovereign capacities to regulate their own citizens.

The argument made by the distinguished Senator from New Jersey basically boiled down to this: We have it in New Jersey, so we are going to make Tennessee have it. We have decided in New Jersey that it is a good idea, so I am going to fly to Washington and impose it on Tennessee, Georgia, Wyoming, and all 21 States which have different laws.

This is not a new subject. We haven't been waiting a long time to discuss this. We debated and discussed this law every year I was Governor of Tennessee in the 1980s, which is where it is supposed to be discussed, because we are discussing the labor relations of the State of Tennessee. It was discussed almost every year in the 1990s and rejected by the legislature of Tennessee in an entire series of years. I have here the years in which it was considered and rejected by our State. Tennessee considered this specific question in both the State House and the State Senate which, I might add, are majority Democratic during all of this time. In 1997, Tennessee said: We prefer to have a law in Tennessee that provides that mayors and local officials deal directly with public safety employees such as firefighters and police officers. We believe that is the best way to encourage public safety, to have strong communities, and to provide the best labor-management relationship in our State.

The State legislature said that in 1997. The Democratic State legislature said it again in 1999. They said it again in 2001, 2003, and 2005. In our State of Tennessee, we will grant that a different rule might be good for New Jersey, but we have decided over the last two or three decades that way is not good for our State.

What are we talking about here? What we are saying in this Federal law—which will be imposed, as the Senator from Wyoming has said, on every State, but in 21 States like ours, it overturns our law—is basically that a mayor is required to recognize a union leader, if he or she wants to sit down and talk instead of with the policemen and firemen and other public safety employees about pay, benefits, and work rules. It takes away the State's decision that says we believe it is better for the mayor to deal directly with those employees. I don't know what that will do to improve working conditions or cooperation or the public safety, but I am confident it will coerce hundreds of thousands of local policemen and firemen to pay union dues and fatten those treasuries.

This bill is saying what is good for New Jersey, what is good for Massachusetts, is good for Tennessee. What I am saying is we have 90 towns in Tennessee that will be forced to change how they deal with their public employees, because someone in New Jersey or someone in Massachusetts or other States thinks that is what we ought to do. Not only does Washington know best, according to the advocates of this legislation, but also that Washington knows best how to spend our money. Because what are these discussions about? They are discussions about towns such as Pulaski, 7,800 people; Mumford, 5,000 people; Dyersburg, 17,000; Alcoa, 7,700; my hometown of Maryville, 23,000.

Let me take Maryville as an example. We have good schools there. My father ran for the school board after World War II with a ticket of men and women who said: We will take all the money we have and we are going to focus on having great schools. So in that blue-collar town where at the time most of the people worked for the Alcoa plant, middle-income community, lower middle income, by and large, we slowly built up a culture of very good schools. About 75 percent, if I remember the figure correctly, of the local tax dollars go to make those schools superior. They win academic scores year in and year out.

What we are saying to Maryville is: OK, the Senator from New Jersey and the Senator from Massachusetts have a better idea for you folks in Maryville. We are going to impose on you a different way of dealing with your policemen and firemen. As a result, some labor union leader from Massachusetts and New Jersey may come into Maryville and say: Instead of spending 75 percent of your money to make schools better, we want you to do this, that, or the other about public safety and reduce spending on schools and increase spending for salaries of public safety people.

One could make that argument.

But so far, the people in my hometown have said: We would rather not do it that way. We would rather make education our priority. We think we have a super police force. We are very proud of them. But we like the way we are doing things. The same in Sweetwater and Erwin and Bolivar and Rockwood and Church Hill and Millersville. Ninety of our towns in Tennessee would suddenly be doing things the New Jersey way, the New York way. If we wanted to do things the New Jersey way, we would move to New Jersey. We would move to Massachusetts. We would move to New York. Those are wonderful States, but we don't choose to live there. We like to do things our way, and we have always been able to.

We don't have a chance to do that just out of common sense. Common sense would suggest that a big, complex country of 300 million people, where people come from all over the world and freedom and liberty are our values, that we allow people as much as possible to do things in different ways, so long as they meet with certain constitutional rights. Senator BYRD likes for us to carry around in our pockets the Constitution to which we took an oath to honor. It says in amendment X:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

In other words, it says that in the United States of America—it might not be true in some other countries—unless the Constitution says the Federal Government shall do it, the States do it. And so the States have been doing it. We don't say in this country if New Jersey does it and the Senator from New Jersey thinks it is a good idea to do it in Tennessee, make Tennessee do it. That is not the way we do things. So I don't believe this legislation is constitutional, among other things.

Let me also say that as a former Governor, I am trying to make a temperate speech about this legislation, because I feel so strongly about it. But

as a former Governor, when I was sitting there in Nashville, nothing made me madder than to look up to Washington and see some Congressman—and I will have to say, sometimes they were Republicans and sometimes they were Democrats—who flew to Washington and got smarter than they were when they were back in the small towns in which they grew up. They would say in Washington: I have a great idea. They would pass it into law and hold a press conference and take credit for it, and then they would send the bill to me, the Governor. Then what would happen? The next week that same Congressman, if it was a Republican, would be home in Knoxville making a Lincoln day speech bragging about local control, and the Democrat would be in Nashville making a Jackson day speech bragging about local control, and I would be paying the bill. That is not right. That is called an unfunded Federal mandate.

The American people don't like it. I will tell you how much they don't like it. I was one of those Senators—there are a lot of us—who felt a calling to run for the Presidency of the United States a few years ago in the middle of the 1990s. I didn't make it. My preacher brother-in-law said it was a reverse calling and that I should be doing something else for the people. So I am here. But I remember in 1994, 1995, and 1996, there was a strong resentment in this country toward being told what to do from Washington, DC. People had had it up to here. The Republicans seized on that. I remember Newt Gingrich and a lot of Republican candidates for Congress standing on the Capitol steps and saying: No more unfunded mandates. They put it in something they called a Contract with America. And the first piece of legislation that was passed by the new Republican Congress, elected overwhelmingly by the people, S. 1, was the no unfunded Federal mandate act. That was S. 1. We are not going to pass unfunded mandates anymore. If we are going to pass something, we are going to pay for it.

This legislation doesn't pay for it. It might tell Erwin and Maryville and Alcoa and Pulaski and 90 other towns in Tennessee what they need to pay firefighters and policemen. It might tell them what to pay them or create an environment that creates a higher salary, perhaps, or a bigger benefit, but it doesn't pay the bill.

Now, the Republican Congress said in 1994: No more unfunded mandates. If we break our promise, throw us out. In fact, the people have, and I think part of the reason is because some Republicans forgot about no unfunded Federal mandates.

So I urge my colleagues to recognize that to impose upon a State—as different as Tennessee might be from New Jersey; as different as Wyoming might be from Georgia—we do not need the same rules and regulations. We are capable in our hometowns of making a good decision about how to have good labor relations, or how to deal directly with our volunteer firemen. We have over 700 fire departments in Tennessee—700—and lots of different ways of dealing with them. We do not need anybody from New Jersey or Massachusetts or somewhere else telling us how we should deal with them.

This is an ominous trend. Tennessee is also a right-to-work State. Now, I know this legislation has a little section that says this does not interfere with right to work. Well, I wonder about that. Maybe this legislation by itself does not in its explicit terms. But if the Federal Government can say, in New Jersey, in New York, and other States: We have a union shop—in other words, employees do not have the opportunity to make a choice about whether to join a union—why cannot they say: It is good for New Jersey; let's have it in Tennessee? It is not a very big step.

Or if New Jersey or some other—I am not just picking on New Jersey, but their Senator was here saying if this is good for them, it would be good for us—State might say: We do not see any need for the secret ballot in union elections. Let's just let employees sign cards. It makes it a lot easier to organize, and if it is good for New Jersey or New York or California, it is good for Tennessee. A lot of people moved to Tennessee because they prefer our level of taxes. They prefer the right to work. They prefer the relations we have between employers and employees.

I imagine the auto industry, which is now one-third of our manufacturing jobs in Tennessee, is there because we have a different labor environment than in some other parts of the country. Now, that does not mean we do not have union workers. We have a lot of union workers.

In fact, in the mid-1980s, a lot of people paid attention to our State because here came the Nissan plant, which even today is nonunion, and it is the largest, most efficient automobile plant in North America, making 500,000 or 600,000 cars and trucks a year. Right next door, 15 miles away, is General Motors' Saturn plant. When General Motors came, the United Auto Workers came, and they are a partnership. Both plants are successful. There has been some shifting and changing at the General Motors plant, but it is back on track.

So we have both plants there: one where employees are required to join the union, one where people have a choice to join the union. We like it that way, and I think they like it that way.

Now, we are the third or fourth largest State in suppliers. They seem to like it that way. So why would we do it the way some other State does it, especially if we figured out a better way to do it, in our opinion. Particularly in the United States of America where we have a 10th amendment to the Constitution, we believe in federalism, and we are a decentralized society.

So I am very worried about this piece of legislation. I think it is bad for Tennessee. It is bad for our labor-management relations. We have enough common sense in our State—with our Democratic Governor, our Democratic House of Representatives, our Republican State senate now—to make these decisions for ourselves. Why do we need U.S. Senators telling us this? Then, when we get in the majority, we might say: What is good for us in Tennessee is good for New Jersey, and change their law; or what is good for us in Tennessee is good for New York, and change their law. We don't care about New Jersey's law. As long as we follow the constitutional rights of the people of the United States, we would like to settle things.

I come from the mountains of Tennessee. My great-grandfather was asked about his politics. He said: I am a Republican. I fought with the Union and I vote like I shot.

The reason we were unionists and Republicans in the Civil War—and still today—was because we did not want the Federal Government telling us what to do. This is an extreme example of serious meddling.

One last example, and then I will stop.

The argument is, if we can only force all these 90 Tennessee communities to collectively bargain, that will improve public safety. Well, how do we know that? Is New Jersey and New York safer than Tennessee? Do we know that for sure?

Or let's take the one example in Tennessee where we have required communities to collectively bargain, and that is with teachers. The unit is an arm of the National Education Association. I have had some pretty important disagreements with my friends in the Tennessee education association over the last 25 years about what is good for education. For example, I thought it would be a good idea to reward outstanding teaching, pay teachers more for teaching well. Twenty-five years ago, our State became the first State to do so. We created a career ladder system, and we raised taxes in order to offer every single teacher a 70-percent pay increase on the State's share. Ten thousand teachers went up that ladder. Guess who the No. 1 opponent to that was. The teacher's union. Not Albert Shanker and the American Federation of Teachers, but the National Education Association.

I am not criticizing them. They are very open about that. They do not like the idea of paying teachers more for teaching well. I think to improve education we should. So does that really improve education in Tennessee to require that collective bargaining?

Another example: I notice a lot of teachers were worried about being sued by parents. I think that is not right. Why not offer teachers the same liability insurance the State provides to State employees?

The Tennessee Education Association raised its dues to defeat my proposal

because they offer liability insurance. Did that improve education in Tennessee?

Or charter schools? I think charter schools are a good idea, public charter schools that leave teachers free to make their own decisions about the kids who are there. But the teachers union disagreed. That is a legitimate difference of opinion. But I think I am right. They think I am wrong. But does that improve Tennessee's schools to have them there?

Choices for parents: I think the best thing to do in Nashville, for example, where schools are having a very difficult time, might be to ask all the parents where they would like to send their kids to school and see if we could do it. Give them their first, second, and third choice to see if we could probably supply that. The teachers union is opposed to that.

Everyone, when we were bringing in the auto industry to Tennessee, bringing in the Nissan plant—the first time we had ever had those jobs, which raised our family incomes—I wanted to build a road out to the plant with State dollars, and the teachers union objected because they wanted me to give the money to the teachers. I thought that was short-sighted because if we improved the tax base, we would have the money to improve education.

So there are differences of opinion about what would improve education, and there are differences of opinion about what would improve public safety. We like our opinions in Tennessee. That is why we do not like this bill.

So I will be seeking a vote on my amendment when the appropriate time comes. I would urge my colleagues, you may be right about your own home State. Maybe it is better to require all your communities to collectively bargain. Maybe that improves safety in New Jersey or New York or somewhere else. But in Tennessee, we have considered it almost every year for the last 25 years, and we have decided a different way. We believe States ought to have the right to decide what their own labor relations ought to be. We do not believe it is a right of the Federal Government to impose unfunded mandates on us and cause us to pay our extra bills at a time when the Governor is laying off people in our State because there are not enough tax dollars coming in.

This is the grossest sort of interference to the sovereignty of our State. We have a strong bipartisan opinion about this in Tennessee. That is why I am so vigorously opposed to this piece of legislation.

It should be called the Washington Knows Best Unfunded Mandate Act. I am going seek to amend it. I am going to do my best to defeat it.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 4759

Mr. LEAHY. Mr. President, in a short while I am going to call up an amendment, and I will move at that time to set aside the pending amendment to call up amendment No. 4759. I am not going to do it yet because I want the distinguished Republican manager of the bill, Senator ENZI, to have a chance to see what it is before I do. But let me describe it a little bit before I do call it up.

The amendment would reauthorize and extend the Bulletproof Vest Partnership Grant Program. This is a program that some may recall the former Senator from Colorado, Mr. Ben Nighthorse Campbell, and I began some years ago.

This morning, the Judiciary Committee held a hearing about this important grant program. We heard compelling testimony from an officer, Detective David Azur of Baltimore, whose life was saved in 2000 when he was shot at pointblank range in the chest. He said he had enormous pain and a huge bruise from it, but the bullet did not penetrate his vest. I said to Detective Azur from Baltimore—and I know his family; his father served as a police officer in Burlington, VT, when I was a prosecutor—at least he felt the bruise. Had he not had the vest on, he would not have felt anything. He would have died instantly.

We also heard from Vermont State police lieutenant Michael Macarilla. I know Lieutenant Macarilla very well. He spoke about the assistance Vermont law enforcement officers have received from the program.

This week, thousands of law enforcement officers from around the country have come to Washington to honor the men and women who have given their lives in service over the past year. One thing everybody in this Senate could agree on, all Americans could agree on: We should offer our gratitude to the officers and their families.

On Thursday, May 15—this week—Congress and the American people are going to pause to reflect upon the sacrifices too many have made, as we celebrate Peace Officers Memorial Day. This week, at the Police Officers Memorial, we will recognize and remember the 181 officers who were lost in the line of duty during the past year. Every death is a tragedy, but 181, Mr. President—that is the largest yearly total since the extraordinary losses on 9/11 and in its aftermath. Think of that: 181 officers lost, lost in the line of duty. It also means that a family lost a loved one: a spouse, a father, a mother, a son, a daughter, a brother, a sister. We need to do all we can for the men and women who risk their lives protecting us and the public's safety every day.

The Bulletproof Vest Partnership Grant Program saves lives. It makes a real difference to our officers and their families. The officers who testified before the Judiciary Committee today have firsthand experience with the importance of armor vests. So I am grateful to Detective David Azur from Baltimore and grateful to Lieutenant Michael Macarilla from the Vermont State police for their willingness to share their experiences with the committee and the Senate and the Congress.

I was proud to initiate the Bulletproof Vest Partnership Act with Senator Ben Nighthorse Campbell in 1998. Both of us relied on our own experience in law enforcement, experience both of us had in law enforcement before we came to the Senate. Between 1999 and 2007, our program has assisted in the purchase of an estimated 818,044 vests. We have taken a giant step away from the days in which law enforcement officers were required to purchase their own vests or go without the vest. Actually, I do believe the bulletproof vests should be standard issue equipment for law enforcement, just as we have standard equipment issuing a badge and a weapon.

In addition, as we were reminded at this morning's hearing, body armor is not effective forever. You buy it but it wears out. In fact, manufacturers offer only a 5-year warranty for these life-saving vests. They have to be replaced periodically. In fact, for Detective Azur, his warranty was just about to run out when he was shot.

Despite the fact that the President's budget has repeatedly—repeatedly—neglected to request authorized funding for this program, Congress has stepped up and recognized its importance and appropriated the funds needed to keep it strong. I hope Congress will do so again this year. It may be easy to just look at Federal grant programs as just numbers, and say: Here's a number we can cut. It is a good way to reduce Federal spending. But when it comes to the safety of law enforcement officers, I can think of no rational excuse not to fully meet Congress's determined levels of support for the men and women who protect us all. Look what we have done in Iraq. This administration has provided the Iraqi police forces with a virtual blank check over the past several years. American taxpayers have seen hundreds of millions—some would say billions—of dollars sent to Iraq and misspent, this just on the police forces there. Large sums of cash and weapons disappear. We sent over thousands of weapons, and we didn't even know where they went until some of them showed up in the hands of the people trying to kill our own soldiers. If we can afford to pay for training and equipment for the Iraqi police, we ought to be able to afford bulletproof vests for the officers who protect Americans here at home.

There is money in the President's budget for the Iraqi police forces. I would like a little bit of money in the budget for American police forces. I worked with these police officers for 8 years when I was State's attorney. I think we ought to start paying a little bit of attention here at home.

State and local law enforcement officers assist Federal authorities in many areas, and this grant program should

be viewed in the spirit of this cooperation. In an era when State and local law enforcement are shouldering more responsibilities on the front lines in the name of national security or in cooperation with Federal authorities in fighting interstate crime, then the Federal Government owes it to them to provide them with some support. Much of our Nation's strength lies in our rule of law, and Congress should support the men and women who uphold the laws and protect our democracy.

The Bulletproof Vest Partnership Grant Act expires next year, so the amendment I filed would reauthorize this program for another 3 years. It is drawn from the bill that Senators SPECTER, MIKULSKI, SHELBY, HATCH and I have introduced today. It also includes giving discretionary authority to the Director of the Bureau of Justice Assistance at the Justice Department to waive the matching requirement for jurisdictions experiencing financial hardship. That provision is drawn from the Leahy-Shelby bill, S. 2511. I think that in a narrow and tighter budget and a troubled economy, it makes sense to give the agency making these plans the authority and the flexibility to ensure that no jurisdiction is excluded from such critical assistance simply because it can't afford to meet the matching requirements.

Local law enforcement agencies don't have oil revenues. They don't have outside sources of revenue. If we are going to have the administration say send money to the Iraqi police force, which does have enormous oil revenues, and ask the American taxpayers to pay for it, let's pause and do something to help American police forces.

I ask unanimous consent to set aside the pending amendment and call up amendment No. 4759.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Is there objection?

Without objection it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 4759 to amendment No. 4751.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To reauthorize the bulletproof vest partnership grant and provide a waiver for hardship for the matching grant program for law enforcement armor vests)

At the end of the amendment, insert the following:

TITLE ___—BULLETPROOF VEST PARTNERSHIP GRANT AND HARDSHIP WAIVER FOR MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS

SEC. 01. REAUTHORIZATION OF BULLETPROOF VEST PARTNERSHIP GRANT .

(a) SHORT TITLE.—This section may be cited as the ''Bulletproof Vest Partnership Grant Act of 2008''

(b) REAUTHORIZATION.—Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2009'' and inserting ''2012''.

SEC. 02. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.

Section 2501(f) of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll(f)) is amended by inserting at the end the following:

''(3) WAIVER.—The Director may waive, in whole or in part, the requirement of paragraph (1) in the case of fiscal hardship, as determined by the Director.''.

Mr. LEAHY. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ENZI. Mr. President, I wish to take a little bit of time to talk about at least two of the amendments and probably make a mention of the one we just had. As to the underlying bill, we have two amendments that have been suggested—one for a public employees bill of rights and the other one for an unfunded mandate exemption—and I want to comment on those a little bit. I haven't gotten to speak much, and there are several on the other side who have spoken to some extent.

I did notice that the Senator from New Jersey, the former mayor of a community of 60,000, made some comments about how this bill would work, and I wished to point out that 60,000 is a pretty big city in a lot of States around this country. That would be bigger than any city in Wyoming. So when we are talking about how easy it is to do these negotiations, I think we are leaving out some crucial factors.

The bill says it applies if a municipality has more than 5,000 people or—this is very important. It says 5,000 people or 25 employees. If it has 25 employees, no matter what they do for the city, the city comes under this bill. It becomes an unfunded mandate for the city even if there are less than 5,000 people. I can tell my colleagues there are a lot of towns that have less than 5,000 that would have, depending on what services they provide, more than 25 employees.

I think that some of these other employees are going to be a little upset, too, realizing that we have this opportunity to place some special emphasis—and should—on the public safety employees, but not others. My city had its own electrical utility, and I can tell my colleagues, if the power goes out, the most important person in the city for public safety is the guy who comes and gets the electricity going again. This bill would not cover those people. If your city sewer is backing up into somebody's home, the most important city employee from a public safety standpoint is the guy with the city utility. This doesn't include him. But it will force some mandates on the city that will take away money from the guy who fixes the sewer backing up into your house or fixes the electrical utility that keeps the power on that handles heat and air-conditioning and other important things for your home.

I also was kind of fascinated by the Senator from Massachusetts, Mr. KENNEDY, mentioning that as far as the secret ballot, they are going to leave that up to the States. Why would we leave that up to the States? We are not leaving any of the rest of this up to the States. Not only that, we are saying that no matter what the city and the employees agree to, there is going to be this little-known Federal agency that can say: Nope, not enough. That is the way the bill reads. It allows overriding of agreements by the director of a Federal agency. So we are not only saying: We don't care what kind of relationship you have with your public safety people, we don't care how unfunded this is, and we don't care if it steals money from other city employees, we have a Federal agency that is going to keep its eye on you and let you know if you are doing it well enough. Not to mention, of course, that the rules haven't even been written on this, so we don't even know how those are going to go.

So there are some difficulties, and I want to have the chance to address some of these amendments a little more fully.

Of the people who voted for the motion to proceed—some voted that way to say we should debate this. I mentioned in my speech that we needed to have some time to talk about the difficulties of this bill, that there are a lot of things that people don't realize about this bill that need to be corrected and brought out, and we are doing that through some logical amendments.

But Washington does not know best how a municipality works. There is no way we can understand the diversity of all of the municipalities in this United States that would qualify under this bill. Remember, it applies to those with a population of 5,000 or more or 25 employees. So we are not even sure whom we are pulling into this. But we do know we are affecting State law in all 50 States. The exception, of course, is the question of card check or secret ballot where the bill says if they already require it, it is OK, but if they don't, that is OK too. So we can impose every rule on them we can possibly think of, but we are going to leave the right to a secret ballot part out. I hope that is not the case.

I hope some of the amendments that are being suggested will be voted on and passed or, even better yet, accepted. I think some of them are worthy of that.

So with that, I yield the floor and reserve the right to speak again.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I rise in support of the Public Safety Employer-

Employee Cooperation Act. I have been a cosponsor of this legislation in previous Congresses, and I am pleased that the bill, which I first joined several years ago in cosponsoring, is finally coming to the Senate floor.

This bill would ensure that the people we most count on to protect and serve the public—our firefighters, our police officers, our emergency medical personnel, and other first responders—can exercise their rights to organize and bargain collectively with their employers.

Currently, 20 American States do not effectively provide for this right despite the fact that it applies across nearly every other area of the American economy. All first responders should have an effective process to address job issues and practices with the State and local governments they serve.

Now, some have argued that this bill interferes with the proper authority of States and municipalities, but, in fact, the bill simply requires States to allow public safety officers to bargain over wages, hours, and working conditions. My State of Maine has a very similar law in place already. This bill does not in any way dictate outcomes of this process. It gives State—not Federal—courts the authority to enforce contract rights that arise from collective bargaining.

I also wish to emphasize that the bill does not authorize actions that might threaten public safety. In fact, it prohibits both strikes and walkouts. Further, it does not interfere with any existing collective bargaining agreements, nor does it impinge on any area traditionally reserved to management decisionmaking.

Mr. President, I have heard some of my colleagues say this bill will somehow harm the volunteer firefighters who are so important in rural States, such as mine and the State of the Presiding Officer. I think it is important we spell out why that is not the case. In fact, there is no collective bargaining established by this bill for volunteers, volunteer fire departments. This is a bill about collective bargaining rights of employees who are paid for their work. Volunteers, by definition, are not employees. Any suggestion that cities and towns are going to be required to bargain with and possibly pay their volunteer firefighters is simply wrong.

Volunteers are expressly not covered by this bill and will have no right to collective bargaining. All volunteer departments would have no bargaining complications. Furthermore, professional firefighters would still be encouraged to volunteer. I am touched by the fact that some of the professional firefighters in my town act as volunteer firefighters for their hometowns. They may be employed by a larger city in Maine, such as Bangor, Lewiston or Portland, but they may live in a very small town outside the city, where they volunteer on the all-volunteer firefighting force. There is nothing in this bill that discourages anyone from serving as a volunteer firefighter.

In many towns, as I mentioned, volunteer firefighters are actually professional firefighters who volunteer during their off-duty hours. Our legislation preserves that kind of relationship by actually prohibiting States from putting limits on professional firefighters who want to volunteer during their off-duty hours.

This bill addresses concerns that were raised by some of the volunteer firefighters because the protections in the House-passed bill weren't clear enough. The Senate version of this bill will dispel any ambiguity in the House-passed version and make clear that a professional firefighter can, in fact, volunteer to be part of a volunteer force.

The Senate drafters of this bill worked with groups representing volunteer firefighters. I note that the National Volunteer Fire Council supports the language in the Senate substitute that protects the volunteer firefighters.

I believe this bill is a balanced, constructive measure that will help first responders and improve public safety, without improperly or unduly burdening States. It has won the endorsement of the International Association of Firefighters, and it is particularly appropriate that we are turning to this bill during National Police Week, when so many police officers are also in town.

I believe all Americans gained a new appreciation for the service and the sacrifices of our first responders on that terrible day, September 11, 2001. On that day, 343 New York City firefighters and paramedics, 28 New York Police Department officers, and 37 Port Authority officers died doing what they loved. They died trying to rescue others. Such heroism occurs, usually, with far less tragic results in towns and cities across our country every day.

The least we can do to repay the sacrifice and service, the selflessness of our first responders is to ensure that all public safety officers have the right to bargain on their pay and safety standards and working conditions.

This legislation makes sense. I urge my colleagues to join me in supporting this bill to put America's public safety workers on an equal footing with their counterparts in other jobs.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Senator from Maine for her statement. I have one request for her though. Look at the paragraph that deals with volunteer firefighters—the language regarding allowing professional firefighters who want to help out in the community to volunteer as well. There has been language suggested that would make it clear that what you described would happen. But the language from the House definitely doesn't say that. The language, as revised in the substitute amendment, still doesn't say that. I would appreciate it if the Senator would take another look at that and see if that can be made a lot clearer. The language I was referring to is ''to prohibit an employee from engaging in volunteer or part-time employment, any agreement that contains such language shall be unenforceable.'' That is pretty clear. I am concerned that will not only be misconstrued, but it will be bargained away without any consequence. I would appreciate if the Senator would take another look at that.

Ms. COLLINS. Mr. President, if I may respond to my good friend—and he is a good friend who knows this issue very well and considers bills very carefully, which I have always admired about the Senator from Wyoming. First, let me say it is clear the House bill does not do a good job in this area. I think the House bill is very ambiguous and doesn't make clear what I described. So I think we are in agreement about the House bill. I will take a second look at the substitute language, as the Senator has suggested. But I know the drafters of the bill, Senators GREGG and KENNEDY, worked very closely with the National Council of Volunteer Firefighters, and I doubt they would have signed off on the language—which it is my understanding that they have—if, in fact, it did not protect the volunteer firefighters.

Thirdly, my intent is not to impose any sort of obligation on volunteer firefighters. They are, by definition, not employees, so I don't think they come under this bill. In addition, I do wish to make sure anyone who is a professional firefighter, and employed in that profession, is not precluded from also acting as a volunteer firefighter, as so many professional firefighters in Maine and across this country do. I will take another look at the language, but I do know Senator GREGG and Senator KENNEDY have worked very closely with the Volunteer Firefighters Council, and they believe the substitute language does cure what I think all of us would agree was a problem in the House bill.

Again, I thank the Senator from Wyoming. I will take another look at the language.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I concur in what the junior Senator from Maine has said, if the volunteer firefighter organizations worked closely with Senators GREGG and KENNEDY and they are supportive and have signed off on the language.

I am particularly pleased to participate in this discussion for a lot of reasons. One of them is because I was in the Ohio State legislature many years ago—about 25 years ago—when we debated a bill that would have given collective bargaining rights to Ohio first responders. That legislation eventually passed. I have to tell you Ohio, partly

because of that legislation, has the best public safety forces in the United States of America, the best police officers, the best firefighters, and the best EMS professionals. I may be biased about that, but I am also right.

I have worked with the firefighters in Cincinnati to push for legislation that would help eliminate needless risks to their safety on the job. I have worked with firefighters in Lorain and Akron to make sure Federal and municipal firefighters receive the proper benefits when injury strikes. I have worked with police officers to fight for the COPS Program and with EMS professionals to reduce the redtape surrounding hometown hero benefits. All these men and women have pledged to fight for our lives. Every single day they bear deadly risks on our behalf.

The Public Safety Employer-Employee Cooperation Act gives Members of this body an opportunity to fight for first responders, just as they fight for us. It gives us an opportunity to take on risk and overcome it, just as our first responders do. S. 2123 will reduce the risk of injury or death to first responders and the public they serve.

The Alexander amendment will take away our ability to do that. S. 2123 will reduce the risk of a first responder workforce shortage. The Alexander amendment, again, will take away our ability to do that. It will reduce the risk that first responders will be grossly overworked or dramatically underpaid. The Alexander amendment will take away our ability to do that. It will reduce avoidable risks, and when it comes to public safety, avoidable risks are unconscionable risks.

Some public safety professionals have the right to negotiate fair wages, decent benefits, and proper equipment. Some don't have that right. That is because some States empower their first responders to collectively bargain and others don't.

Collective bargaining is not just about wages or benefits; it is about doing the job in the safest way possible, doing the job in the best way possible. If first responders, without bargaining rights, are underpaid or overworked or poorly outfitted, their options include living with it or leaving.

Neither option serves the public good. Our Nation has a stake in ensuring that public safety jobs are filled in every town, every city, and every State.

Denying first responders the right to negotiate fair wages—denying them the right to negotiate their own safety—is not exactly a strong selling point for these jobs. That is why the Alexander amendment should go down and the bill should pass.

The Public Safety Employer-Employee Cooperation Act ensures that every first responder, regardless of where she or he lives, can do that. This bill promotes fairness and safety. It wasn't just written for first responders—police, firefighters, and EMS professionals. It was also written for those who rely on first responders. That is us. This bill was written for us.

Senator ALEXANDER's amendment, when he spoke, talked about the ''Washington knows best'' attitude. I thought about that as he was talking. His points were well made and well articulated. I wear on my lapel a pin that is a depiction of a canary in a birdcage. About 100 years ago, the mine workers used to take the canary into the mine, and if it died from toxic gas or from a lack of oxygen, the mine worker knew he had to get out of the mine. In those days, the worker had no Government that cared enough to protect him, no union strong enough to protect him, and he didn't have collective bargaining rights. We know that 100 years ago, a baby born in this country lived to be about 46 or 47 years old. Today, a child lives 30 years longer. Do you know why that is? It is not mostly miracle medical technology. Certainly, chemotherapy and heart transplants and other things help many of us live longer. But the reason people live 30 years longer today is, frankly, because of national standards, because of collective bargaining rights. Look around. We have strong collective bargaining laws, and people live 30 years longer because we have strong laws on safe drinking water and clean air. We have strong laws on minimum wage and Social Security and Medicare and prohibition on child labor and protections for women and all the things that were negotiated at the bargaining table and were passed by this Congress—setting national standards on clean air, on safer drinking water, on worker safety, national standards on a whole host of issues that are important to all of us. That is why when I hear this ''Washington knows best,'' we will do it our own way—we have not done that on civil rights or worker rights. As a nation, we share these values, whether we are from Wyoming, Tennessee, New Jersey, Massachusetts or Ohio, and we share these values of helping people, giving them collective bargaining rights, passing a minimum wage increase, having safe drinking water and clean air and pure food laws—all that our country has stood for.

Also, Senator ALEXANDER said this act imposes an unfunded mandate on cities and States, and they would not even be able to afford new benefits for public safety officers. I will answer that for a moment. First of all, under the bill, no costs are imposed. The bill comes with no pricetag. There is not a single provision in the bill that requires cities and States to spend a penny.

Senator ALEXANDER spoke about Pulaski and other communities in Tennessee, saying we are going to go to Tennessee and tell them how much they are going to have to pay first responders in Pulaski or in Nashville. We don't want to do that. I don't want the Federal Government to tell us what first responders in Mansfield, Zanesville, Lima, Springfield, and Xenia should get. But this bill doesn't do that. It doesn't set those kinds of standards, and we know that.

I wish to speak to a couple other issues. No particular terms are imposed in this legislation. Local governments under the Kennedy-Gregg bill are free to write their own contracts. The bill doesn't require any particular terms. State and local officials will sit down with workers and figure out together what will work for their communities. That is the whole point of collective bargaining, not to impose this health provision or this level of pension or that particular wage. It doesn't do that. It simply gives those communities the right to organize and bargain collectively.

There is no binding arbitration in this bill. Many States have done binding arbitration. This bill doesn't require binding arbitration. So no third party can require a government to raise wages or spend any money the local government and their citizens don't agree to spend.

State and local legislatures have the final say. We went out of our way to respect the autonomy of State governments. One way we have done that is to let State and local legislatures have the final say on collective bargaining agreements. The States can give their legislatures the right to approve or disapprove funding for any negotiated agreements. Again, that is what collective bargaining is all about, whether it is in New Jersey, Massachusetts, Wyoming, Ohio, or Tennessee.

This bill most specifically is about mandating a discussion between employers and workers. It is not a mandate. It certainly is not an unfunded mandate. That is why the Alexander amendment should be defeated. That is why the underlying bill should be approved.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BROWN. I certainly will yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope our colleagues have listened carefully to the Senator from Ohio because he has laid out the essential elements of this legislation and did it effectively.

As I mentioned, very often around here we have people who misrepresent or mischaracterize legislation and then differ with it. I have even done it myself a few times. We have seen that done with regard to this legislation.

I listened to my friend and colleague—and he is my friend and colleague—from Tennessee. I watched him wave the Constitution and talk about the tenth amendment, and the Senator from Ohio has answered that.

Does the Senator not agree with me that the basic process that is followed is that if this legislation is passed, a State then must set up some opportunity fulfilling four different requirements that are included in the bill? Those four different requirements that are to provide public service officers

the right to form and join a labor organization; requires the employers to recognize a union that is chosen, require employers to engage in a collective bargaining process, and make available an impasse resolution. As the Senator correctly pointed out, that may very well be arbitration, that may be factfinding. It is completely left open.

Now the State takes these four broad guidelines and fashions legislation. Once Tennessee passes a law, if Tennessee workers say we don't like unions, they don't have to have one. End of the story. I had difficulty in understanding the Senator from Tennessee talk eloquently for half an hour describing this amendment, and I said one of us hasn't read it because there is no such requirement in this legislation as described by the Senator from Tennessee.

I wish the Senator would once again speak to the issue of an unfunded mandate. There is no possibility, as the Senator has mentioned, that there can be any impact on the local community or the State in terms of requiring them to spend a nickel if it isn't going to be approved by the regular order within that State. The State is going to have to make that judgment and that decision whether they want it, but there is nothing included in this legislation that is going to alter that part of the procedure.

As to these concerns we have heard during the course of the afternoon that this new legislation is going to suddenly be an unfunded mandate, I am always interested, if you eliminated the words ''unfunded mandate,'' you would quiet about half the Senate. They use those words so frequently when too often they don't have anything else to say. ''It is an unfunded mandate,'' and everyone quivers and shakes about it. That is the situation.

It is good if we have a debate, and we welcome the opportunity to take some time to debate. We are in no rush. This is important legislation. It is important that the Members understand it, but it is important, it does seem to me, as we are engaging in this debate, for the Members to understand correctly what we are doing and what we are not doing.

I was interested to know if the Senator agrees with me that the bill will not require any town or community in Ohio or any State to expend resources and funds that the State will not duly authorize under its existing appropriations procedures?

Mr. BROWN. Mr. President, I thank the Senator. I certainly agree with the senior Senator from Massachusetts. In my State in Ohio, I have watched for 25 years what has happened with public employee collective bargaining. It has made the State better.

At the beginning of my comments, I talked about Ohio, I believe, has the best police, fire, and EMS forces in the entire country. A big part of that came out of collective bargaining.

Many times in communities when the city council reaches a difficult position with their police or with their fire or with their other first responders, the Federal Government does not get involved. We don't mandate that there should be a certain level of pay or certain level of fringe benefits or certain level of worker protections as they do their jobs. That is up to them, and this bill makes that easier to accomplish.

In no way is there a mandate, and in no way is this an unfunded mandate. No costs are imposed, no terms are imposed, there is no binding arbitration. As Senator KENNEDY said, if Newton, MA, Lynn or Boston want to have binding arbitration or factfinding, they can do that. It is the same with Marion, Portsmouth, and Ravenna, OH. They make those decisions. That is the beauty of this legislation. We set up the system of collective bargaining and let them make those determinations.

Mr. KENNEDY. Mr. President, if the Senator will yield further, would the Senator not agree with me that the decisionmaking then is going to be done at effectively the local level by workers rather than at the Federal level or even at the State level? The State is going to outline a process. Then the workers are going to make a judgment as to whether they want to follow that process. And if they choose that they will not do it, then there is no process or procedure, and they don't have to do it.

A compelling aspect of this legislation is the fact that we are giving the authority to deal with the most local issues to those who have responsibility today in the local community and who know best in terms of safety and security, and are trained in safety and security—the first responders.

The record is powerful in this area about how to ensure additional safety and protection for local communities, the State, and the country. We want to make sure that those decisions are made by the workers who have that expertise.

I thank the Senator for his comments because we have heard a good deal of rhetoric on the floor. It is important that we make sure our colleagues have a good understanding and awareness of the great efforts that have been made to make sure we are going to respect the States, we are going to respect, obviously, local communities and the differences that take place, and we are going to have special provisions, as the Senator correctly pointed out, in terms of voluntary fire departments.

We tried to work very carefully and closely—as the Senator has mentioned, this has been a bipartisan effort with Senators from all different parts of the country. What is important is that local firefighters, local first responders, local police officers are so strongly in support of this legislation because they understand better than anyone on the floor of this Senate the difference it can make for the safety and security of the American people.

I thank the Senator.

Mr. BROWN. Mr. President, I thank Senator KENNEDY again for his comments. Look at what happened in this country over the last decades, as we set up a system of collective bargaining for private employees. This body had no interest in telling GM and the UAW how to negotiate a contract, only that the rights of collective bargaining are recognized in this country.

We have the same view—not a mandate, not an unfunded mandate, to be sure—the same view of setting up collective bargaining with governments, elected officials, in all that we do.

As Senator KENNEDY said, it is all pushed to the local level. They will make the decisions. That is why defeat of the Alexander amendment is crucial. It undoes all the good in this bill. After defeating the Alexander amendment, this legislation should receive an affirmative vote.

Mr. DODD. Mr. President, I rise today to speak in support of the Public Safety Employer-Employee Cooperation Act, a bipartisan measure that will guarantee our Nation's law enforcement officers, firefighters and emergency medical personnel the right to bargain collectively with their employers. I want to thank Senator GREGG and Senator KENNEDY for their long-standing commitment to this critically important legislation.

Now more than ever, the risks taken by our first responders are greater than they have ever been. From the increased risk of terrorist attacks, to the catastrophic hurricanes, tornadoes, and wildfires that have ravaged our country from coast to coast, each and every day we ask more from our emergency workers, and they always rise to the challenge. These are people who have chosen to dedicate their lives to serving their communities—making the streets safe, fighting fires, providing pre-hospital emergency medical care, conducting search-and-rescue missions when a building collapses or a natural disaster occurs, responding to hazardous materials emergencies, and so much more.

The Public Safety Employer-Employee Cooperation Act provides these brave men and women with basic rights to bargain collectively, a right that workers in many other industries have used effectively to improve relations with their supervisors. This bill is carefully crafted to allow States a great deal of flexibility to implement plans that will work best from them. All it requires is that States provide public safety workers with the most basic collective bargaining rights—the right to form and join unions and to collectively bargain over wages, hours, and working conditions. It also will require a mechanism for settling any labor disputes. These are rights that a majority of States already provide these workers, and this bill does nothing to interfere with States whose laws already provide these fundamental rights.

This bill will allow States to continue enforcing right-to-work laws

they may have on the books, which prohibit contracts requiring union membership as a condition of employment. This bill even allows States to entirely exempt small communities with fewer than 5,000 residents or fewer than 25 full-time employees.

Importantly, this bill takes every precaution to ensure that the right to collectively bargain will not interfere with the critical role these workers play in keeping our communities safe. It explicitly prohibits any strikes, lockouts, or other work stoppages. But the key to this bill is truly to foster a cooperative atmosphere between our first responders and the agencies they work for. Cooperation between labor and management will inevitably lead to public safety agencies being better able to serve their communities. Unions can help ensure that vital public services run smoothly during a crisis, and this bill will further that goal.

I would add that this legislation enjoys enormous bipartisan support. The House passed H.R. 980 by an overwhelming margin of 314–97. Here in the Senate, our version enjoys the support of all my colleagues on this side of the aisle and many on the other side as well, including Senator GREGG, the bill's sponsor. In an era ruled by party-line votes, this speaks to the great importance of this legislation. That is because we recognize the unique and essential role these workers play in every single community, and we recognize that by granting them these basic rights they will be able to better serve those communities.

This bill addresses some of the most critical concerns of our Nation's first responders. It goes beyond negotiating wages, hours and benefits. In this circumstance, for this group of people, it means so much more. It means that the men and women who run into burning buildings, resuscitate accident victims, and patrol the streets of our towns and cities can sit down with their supervisors to relate their real life experiences. They can discuss their concerns and use their on-the-ground expertise to help improve their service to the community. Granting our first responders this basic right is not only in their best interest it is in all of our best interests. It will allow these men and women to better serve their communities by fostering a spirit of cooperation with the agencies and towns that employ them.

When tragedies have struck us, from the September 11 attacks to Hurricane Katrina, it is these workers who are the first people on the scene and the last to leave. We owe them everything, and all they have asked of us in return is dignity and respect in the workplace. They stand with us every single day on the job, and it is time we stand with them. I urge all my colleagues to join me and the millions of first responders who form the backbone of our nation's homeland security by voting to pass this crucial legislation.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Arizona.

Mr. KYL. Mr. President, I wish to speak to this legislation and address briefly some of the comments that have been made.

I don't think there is any question that this legislation would represent an unprecedented intrusion by the Federal Government into the affairs of States. It is justified on the basis primarily that it is needed, that States should be required to do the things the law mandates.

I don't think one can argue this is not an intrusion into State law. As a matter of fact, as I understand it, the bill would specifically reverse the actions of 13 States that have considered and rejected similar legislation in the last two legislative sessions of those States. The law in these States would be overruled by this legislation. The bill would specifically overturn the current law in an additional eight States and cast into doubt a number of aspects of current law in at least an additional nine other States.

Apart from the constitutional issues that have been raised by some of my colleagues, the first point I wanted to make is we cannot very well argue we are not telling the States to do anything, we are not really changing anything in the States; this is Federal law that controls certain aspects of State labor laws from now on and, as I said, in several situations would specifically change the policies of States as determined by the citizens of those States.

We have to ask ourselves a fundamental question: Do we trust States and local governments or do we not? There are some reasons why States have different labor laws, as well as other kinds of laws. There are reasons why some States have permitted what this legislation would mandate and other States have not.

For example, it is very difficult to argue a State that doesn't currently have this kind of requirement doesn't care about the safety of its employees. These are people in our communities, these are people who are already governed by other laws relating to minimum wage and safety, to the things that were mentioned by my colleague from Ohio, and these are people who certainly have the ear of others in their community. They are leaders in their community.

I can certainly attest to my State of Arizona. There are some tremendous folks in our firefighting communities, specifically in my hometown of Phoenix, but in other communities as well. If they were working under unsafe conditions or conditions they felt were not appropriate for the circumstance, I think we would hear about that.

To suggest that the mayor of a town doesn't care about their safety or else he would be doing this and, therefore, we are going to have to mandate it on to that community is not a proper recognition of the way our Government works in this country, starting from the ground up rather than the top down. That is what the United States is all about, and that is why communities have different ways of dealing with these different situations.

I, frankly, have not heard any case made for the legislation. I have not heard of situations where in several of these communities over 5,000 population, because this particular mandate doesn't exist, there are all sorts of horrible things happening that have to be fixed.

Unless there is some suggestion that is the case—first, that petition ought to be brought to the State or local government that is involved to see if they want to change their laws. But otherwise, there is certainly no reason why the Federal Government should be intruding into the area.

I don't think we can say this legislation is not a mandate to the States, that it simply allows States to continue to operate as they are. That is clearly not the case.

As my colleague from Massachusetts pointed out, there are four specific requirements that have to be met under this legislation. But he then went on—and I am not certain of exactly what the point here was—that if they do not agree, then that is the end of it.

The reality is, the legislation itself has a very explicit provision for what happens if the Federal authority does not believe the agreement is in compliance with this law. It is subject to the enforcement of section 5 of the law, which is a very extensive section that deals with what happens if you are not in compliance. I will not bother to go through the whole legislation, but it speaks about the determination of rights and responsibilities and says that the authorities shall make a determination as to whether a State substantially provides for the rights and responsibilities set forth in the legislation not later than 180 days after enactment. If it concludes that it does not meet the requirements, then it shall be subject to the enforcement or to the procedure described in section 5. That is on page 9 of the bill. Then section 5 goes on to provide all of the ways in which the Federal authority would then have the jurisdiction to make determinations as to what the State is supposed to do. This is an intrusion of the Federal Government into activities that have previously been left to the States, and I think there is a failure to protect both the rights of the workers in this case as well as the local communities.

I note that Senator HATCH has an amendment, which I think is a good idea, to provide for, in effect, a bill of rights for the workers under this legislation.

I also think the bill itself purports to prohibit strikes. But let me describe to you what the bill does do. It goes to great pains to say that it is not a strike when a public safety officer refuses ''to carry out services that are not mandatory conditions of their employment.'' Well, what does that mean? There is a rich history in labor law

about, you know, well, we were all sick that day. It was purely coincidence that we did not come to work, that kind of thing. We are all familiar with that. Who decides this?

Obviously, at least in my view, this provision appears to be nothing more than legislative code words that authorize work-to-rule and a host of other types of disruptive job actions that we have all become familiar with in certain unions—teachers unions, for example.

The bill forces unions on unwilling cities and towns and then gives those unions the legislative green light, in effect, to disrupt municipal services as long as it is not the refusal to carry out a mandatory condition.

I think some of these things probably could have been corrected had the bill gone through the regular legislative process. But, as the Senator from Wyoming, the ranking member of the committee, the former chairman, pointed out, the bill has not gone through committee. It has not had the benefit of some of the changes that would have improved the bill had it done so.

In fact, I am informed that there were changes that were recommended even by some supporters of the bill when it came from the House of Representatives, things they understood at that point that should be done to the bill to make it a better bill and to make it work more effectively. But the committee had no opportunity to consider those items.

So, at a minimum, this kind of complicated legislation that is going to direct States and municipalities should be the subject of hearings and of the regular legislative process that would enable us to correct its deficiencies before it comes to the floor of the Senate here.

Now, there has been discussion about the administrative expenses not being an unfunded mandate. Well, I do not think there is any doubt that there are costs associated with this. The Federal Government is not paying for them. You can call it whatever you want. I do not know what those costs would totally amount to, whether they would end up bankrupting cities. I am not going to make those claims. But I do not think you can deny there would be extra costs associated with this legislation and that the Federal Government does not pay for those costs.

It has also been pointed out that because of provisions that have—union contracts that cities have taken on in certain instances, those cities have either declared bankruptcy or become close to declaring bankruptcy because of the requirements of these union contracts. I am not going to assert that every city would end up in that kind of a situation either. But I do think it is important to note that there will be financial ramifications. There is no point in doing it otherwise. As a result, I think the cities and the folks in these communities need to consider what their additional obligations are going to be. As I said, there is no reason to have this legislation unless one assumes there will be additional costs imposed upon the folks in those communities.

Another thing about this legislation that causes a great deal of consternation, at least on this side of the aisle and among a lot of people who have been surveyed about the so-called card check legislation, is the principle that in order to unionize a particular facility, you do not have to have a secret ballot. The people, the workers there, are not, in fact, entitled to make their wishes known by secret ballot but, rather, it is done through what is called a card check, a nonsecret proposition where somebody comes around and says: You want to sign this petition, don't you? And through various methods of intimidation—direct or indirect—they could end up forcing unionization in that situation. That is not the American way. We have always prided ourselves on having secret ballots in this country, in labor relations as well as when we elect our officials and vote on propositions that affect our communities.

This bill contains no workers' protections. Specifically, it sanctions State card check laws that do not guarantee secret ballot elections for unionization, and it does not require transparency, fiscal transparency, for labor unions or any other control over the way the unions would then spend the union dues of the members of the union.

One of the things that bothers me most about it, though, is what is called the authority, the Federal entity. It is a new entity that would be created to supervise this legislation. It is not accountable to the State, but it basically becomes in charge of their State laws. In fact, as I said, if it makes the determination that the State law does not comply in what it thinks is the requirement of this legislation, then there are several different enforcement actions it can take to bring the State into compliance. That is not States rights. That is not allowing communities to decide. That is an imposition from the top down from the U.S. Government here in Washington.

There are a lot of smart people in the Senate and a lot of smart bureaucrats and other officials here in Washington, but I do not think any of them got any smarter when they came to Washington, DC, from where they were originally located. We have many smart people in our States and communities who can do these things. We do not have to turn to Washington, DC.

The final point I wish to make is that there is a little bit of a double standard here because, of course, we do not have this in the Federal Government. We are not mandating full collective bargaining for Federal employees, but we are going to impose it on States and towns for a large segment of their employees. I think our folks back home would rightly ask us: Now, what about this? It is something you are imposing on us. If it is such a wonderful idea, why don't you try to do it at the Federal level as well? I think most of us recognize it would not get very far at the Federal level, and it should not get very far at the local level.

I will conclude with this: We all have folks back in our communities who do a tremendous job in protecting us through fire and police protection, providing emergency services. It has been my pleasure and, frankly, an honor to visit with some of them even this week and to visit with them back home and to represent them and to work with them on matters of concern to them. From time to time, some of them have spoken to me about this legislation.

We have a pretty rich tradition in Arizona. It is a right-to-work State. It is a State that obviously has unions, but it also has a rich tradition in trying to protect workers' rights. I find so much of this legislation, as it is written, does not meet what the people of the State of Arizona have year after year insisted in labor relations legislation to govern the relations with the folks who work in the State of Arizona. I think it would be rejected by my constituents. Therefore, it is far better to try to work to correct conditions as they exist locally if those conditions can be presented as significant problems. As I said, I have not seen that. I have not seen it in my local community. I have not seen it presented as a national emergency that has to be dealt with in this extraordinary way. If there are hearings, bring these problems out. If the legislation then works through the committee in a way that provides some of the worker protections we do not see here, provides a little more clarity with respect to things that are not clear, then it is obviously something folks could look at.

In the meantime, I am going to respect the local communities and the people in the State of Arizona who have spoken to this issue in the past and, as a result, urge my colleagues to reject this legislation in its current form. In the meantime, I will support some of the very interesting amendments that have been brought forth, one by my colleague from Tennessee, but I specifically mention my colleague, Senator HATCH.

Let me conclude by acknowledging the good work of the leader on our side of the aisle, the ranking member of the committee, the Senator from Wyoming, and also the fine work that, as always, he does in putting legislation like this together with the chairman of the committee, Senator KENNEDY. To suggest that the bill is not perfect is not to suggest that I do not respect his considerable skills at writing and legislating. It is that we have some disagreement about some of these things. I suspect that had the bill gone through the committee process, it would be a better product than it is today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take a few moments to respond to some of the points that have been made during the afternoon. There are some very basic and fundamental points that I think should be made, and that is on the question of the right to choose and the ability for individuals to have that right to choose.

Here on the floor of the Senate, we heard last night from the Senator from Tennessee and at a time here earlier from the Senator from Arizona. I appreciate his kind personal comments. And I join him in paying tribute to my colleague, the Senator from Wyoming.

Although we differ on this legislation, he knows the great respect I have for him as a legislator and the affection I have for him. But there is a difference between a State saying: We are going to deny people the opportunity for collective bargaining, and a State having a process and a procedure in which the people in the State make that judgment and decision. It is similar to the right to vote. Every individual ought to have that right to vote, and if they are not going to use it, that is their judgment and decision, but it is an important enough right to say that we must make it available and allow them to exercise it.

That is what we are saying with this legislation, that a decision dealing with safety and security and a voice on the job for first responders is sufficiently important that workers should have an opportunity to express themselves and decide whether they want collective bargaining. The States themselves, as good as we believe their judgments are, shouldn't get to make that decision for the workers. The States should set up a process and procedure and let the people in the States make that judgment—that is pretty apple pie Americana, to let people make judgments and decisions about matters that are going to make an important difference with regard to safety and security of their jobs and their communities. That is what this is basically about.

So when we hear on the other side: my State made a judgment on it, and we are trying to see another State trying to impose its will on mine, well, I think my friend Senator BROWN answered that very well as a general concept, but in particular, it is important to understand what is at the root of this, and that is a process. If this legislation passes, a State has four broad criteria that it must meet, and the Senator from Arizona is correct that if the State does not meet these requirements, then the Federal Labor Relations Authority has to step in and make sure these criteria are met. But if they do meet these basic requirements the Federal Labor Relations Authority would not become involved at all.

The idea that workers are going to be forced to join a union if they don't want one is a scare tactic—and I don't say that in a pejorative way, but just for our membership to understand. We are giving the choice to the workers. We believe those firefighters and first responders can make that judgment. We think it is an important enough decision that affects their lives and the lives of the people they are protecting that they should make it. Then they can make the judgment and decision on what they want in that particular State. If they make the decision that they don't want to have collective bargaining, so be it. But at least they have the possibility of moving ahead in that direction. It is difficult for me to believe that the States would refuse to establish the kind of process and procedure that would make that choice possible.

There are a host of different provisions in the Hatch amendment which have previously been rejected in one form or another. We might go over them briefly tomorrow. But I wanted to point out, in this legislation there is no requirement that workers must use majority sign-up, or card-check. I am a supporter of card check. I think it would open up opportunities for people to speak on the issue of whether they want to organize. But we have not made that judgment in this legislation. That isn't what this legislation is about. It is always interesting to me to hear all the opposition to card check, when we know historically that we used to have card check and it worked very well. Into the 1950s, we had it, and we didn't hear a lot of the horror stories that we hear associated with it at this time. But there is not any requirement in this bill about card check. So it is important people understand that.

During the course of the afternoon, I heard a description of this legislation that I could not understand and never would have supported, if the legislation provided that. I hope we can clear up some of these misconceptions. We have had a good discussion on a number of these issues and on a number of others during the course of the afternoon. We will have a chance to go through the RECORD in more careful detail this evening, and make additional points when that opportunity presents itself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, as the Senator from Tennessee prepares, I wish to make a couple of comments because I still haven't gotten to talk about either the bill of rights or the unfunded mandate amendments. I am equally as disturbed as the Senator from Massachusetts has just described himself. Where he thinks that I don't understand it, I don't think he understands it. But we have never had a chance to work this out as part of the committee. We come here to the floor, and here it is, kind of take it or leave it. Any amendment that we bring up is going to be considered to have been old and regurgitated. These are things we have always had a concern for, especially when something is being thrust on States that have specifically addressed the particular issue and said no.

I know the Senator from Ohio had a lot of enthusiasm, but I don't think we can connect collective bargaining with the Clean Air Act and the Clean Water Act. Both sides are using some things that might be a little extraneous to what we are trying to achieve here. I do want everyone to pay particular attention to what is in the bill about the final and unprecedented authority of the Federal Labor Relations Authority. As the Senator from Massachusetts says, there are only four requirements. Those are very vague requirements. There are many people who work with this on a daily basis who have noted the vagueness of these terms and how impossible it would be to deal under that criteria. Not to mention the fact that some of these States have not been subject to such ruled before, and after they make agreements, a Federal agency may say: No, that is not good enough.

That is what we are mandating in this bill, asking a Federal agency that we hardly ever hear about, the Federal Labor Relations Authority, to decide, even if a city and their first responders, police, and firefighters say this is a contract we like, that group can override it. They can say: That is not good enough. I don't think that is the kind of Federal authority we should be trying to give to an agency that hasn't had that kind of authority.

I do have more to say, but the Senator from Tennessee is here. I would love to hear his comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 4761

Mr. CORKER. Mr. President, I ask unanimous consent that the pending amendment be set aside.

Mr. KENNEDY. Reserving the right to object, I don't expect that I will object, but would the Senator withhold that request for a few more minutes?

Mr. CORKER. Yes.

Mr. KENNEDY. I am sure we are going to accede to it, but there is something we want to check out.

Mr. CORKER. If it is OK to continue, I will.

Mr. KENNEDY. Please, I appreciate that.

Mr. CORKER. Mr. President, with the approval of the senior Senator from Massachusetts, at the appropriate time I will send to the desk an amendment to the pending legislation we are discussing. What this amendment would do, in the spirit actually of what our distinguished Senator from Massachusetts said, talking about giving States the ability to do what they wish after this legislation passes, in that same spirit, what this amendment would do is actually give each State or political subdivision the ability within 1 year of enactment of this legislation, should it pass, to be able to override that and not have this legislation apply to their State or to their political subdivision.

I think this is very much actually in keeping with many of the statements the Senator from Massachusetts made. I hope this amendment passes.

Let me say, in giving a background to this, I was a mayor of a city. I don't think I will ever have a job that I loved more than being the mayor of a city, working with citizens right there with the problems they have to deal with, nor do I think there will ever be a group of people I respect more than the firefighters and the men and women of our police departments who serve us so well. Like many people here, I have attended funerals of policemen who have lost their lives in the line of duty. I have attended retirements and other meaningful events for firefighters who spent their entire life giving public service to our cities. I don't think there is anybody in this body who respects more what firefighters and police men and women do in their line of duty to protect each of us and deal with us. But I have also had to deal with those issues at the local level where we have to balance a budget, the same thing at the State level, something we here in Washington don't have to do. We don't have the financial constructs that local municipalities and States have. They actually have to deliver. I find it almost ironic that here in Washington we are going to mandate to the States, we are going to mandate to cities all across America, how they should go about dictating labor agreements in their own cities and States. This is a tremendous overreach by those of us at the Federal level.

I have yet to hear a good policy reason for this to be in place. States and cities throughout our country, should they decide to incorporate collective bargaining in the area of public service, can do so if they wish.

This legislation certainly deserves defeat in its present mode. I hope this amendment, as it will be presented tomorrow, can be accepted and at least cause this legislation to give back to States and cities the right to determine their own destiny as it relates to negotiating with people who work in firefighting and police departments all across the country.

With that, I ask unanimous consent, again, to send the amendment to the desk.

Mr. KENNEDY. We have no objection, Mr. President.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. CORKER] proposes an amendment numbered 4761 to amendment No. 4751.

Mr. CORKER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To permit States to pass laws to exempt such States from the provisions of this Act)

At the appropriate place, insert the following:

SEC. ____. STATE EXEMPTION.

Notwithstanding any other provision of this Act, the provisions of this Act shall not apply to a State (or political subdivision) that, within 1 year of the date of enactment of this Act, enacts a law that specifically refutes the provisions of this Act.

Mr. CORKER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, very quickly, the effect of the Corker amendment would be to gut or undermine the legislation. What we are trying to do is give workers an opportunity to make a judgment about how to proceed. That choice should be made by workers, not the Federal Government, not us here in Washington, DC, not in the State capitols, not the legislatures, but to let the workers, who are on the frontlines—firefighters, police officers, first responders—make the judgments that are going to make a difference in terms of their lives and in terms of their view of what is in the best interests of the safety and security of fellow citizens. This amendment, of course, will undermine that effort.

Finally, I want to review what this legislation does. We have done this a bit earlier today. I wanted to mention exactly what the requirements would be. First, there are four requirements that the States must meet to establish a framework by which the first responders and the firefighters and the police would make a judgment about whether they want a union. There must be a process allowing workers to form or join a union so they can have a voice in important decisions such as safety; they must be allowed to bargain over working conditions with their employers; they must be able to sign legally enforceable contracts; and they must have access to a neutral third party to help resolve disputes. We don't say whether it is arbitration, mediation, factfinding. All of those options are available. At the end of the day, if the workers say: We don't want that, then the issue is settled. But they have the voice. That is at the heart and the soul of this legislation. Do you have sufficient confidence in these individuals to be able to make that judgment. Those 343 extraordinary firefighters who lost their lives on 9/11, should they have had the opportunity to make judgments with regard to their safety and security? Shouldn't they be the individuals who know what is important in terms of safety and security? They weren't failing or flagging in terms of their resolution or their courage. What we are attempting to do is say: They are the knowledgeable people. They are the trained people. They are the ones who know how to improve safety. They should have a voice at the table, if they want one.

All of this about unfunded mandates, all of this about the Federal Labor Relations Authority, all of the language about volunteer firefighters, all of that is useful to talk about but misses the very basic and important element and thrust of this legislation, which is so important in terms of people who work every day to make our communities and our cities in our country safe and secure.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, again, I appreciate the words of the Senator from Massachusetts and do enjoy working with him on bills. I think I have been pretty cooperative in getting bills through committee, as he was when I was the chairman.

Again, we have not had a chance to work on these amendments or on the bill together. We are having to do it separately, and there is a lot of rhetoric involved in this issue, and a lot of misunderstanding. Those are the kinds of things that get cleared up in a little closer working relationship than you can get by addressing it on the floor of the Senate.

But I too was a mayor, and I was a mayor of a boomtown. Boomtowns attract young people, and young people are vivacious. They are busy. They like to work hard, and they like to play hard. As a result, I had a police department that had to handle some probably unique situations.

I had a volunteer fire department to work with, and we later combined that with the county so we did not have disputes over whether a building that was on fire was inside the city or outside the city. That helped overcome a lot of difficulties there.

So I worked with the firefighters. I have worked with police. I worked with the sheriff's department. Again, we had that same boundary problem when it came to: What is within the city limits and outside the city limits, particularly when you have a fast-growing community; and we did. And we do again. The energy boom is creating a fast-growing community again.

I remember being at a crawfish boil almost a month ago. That is one of the highlights of the year for people who work particularly in the oil patch, but actually people who work all over the community. It was started by some Cajuns from Louisiana who came up to work in the oil patch. They said: We ought to have a crawfish boil. They even figured out a reason for it. They said: If we can get somebody to donate the food, and then we can charge people to come, we can put that in kind of an emergency fund for anything that happens to anybody. They did that. The event still goes on 25 years later. They used to give the beer away. Now they sell the beer. That is worth about another $45,000 in donations. But they did about 11,000 pounds of crawfish this year and fed about 5,000 people. At any one time, there were easily 3,500 people in the building. As you came in, you

had to be approved as being over 21 in order to be able to buy that beer. If you were over 21, you got this bright orange wristband, virtually impossible to take off without cutting.

As I was enjoying my crawfish, I looked around the room and noticed that almost everybody there had on one of these orange bands. But I also noticed that they all looked like they were about 18 or 19. I knew they were 21.

So, once again, we have a very young community of people who are working hard and playing hard. That puts some extra stress on law enforcement. I respect the people who are in law enforcement. In fact, my brother-in-law is a policeman in Gillette. He is the oldest person to ever go through the Wyoming law enforcement academy. He decided to become a policeman at the time most policemen are retiring, and he loves it. He enjoys it, and he does a good job with it. He has seen some interesting situations and even been bitten by a person. But he loves his work. He does it well. But he has not asked me to mandate collective bargaining. Neither did the people who worked for me when I was mayor.

I would not have had the capability to do any particular additional things for them because while it was a boom, it was an energy boom, and all the energy happened outside of the community. So we did not get any tax base off of that business—the business that was growing and causing the city growth. We only got to tax what was inside the city limits. We had to handle things such as sewer and water, streets, garbage, police protection, and electricity. We even had our own electrical utility.

I had to find water for people. They considered that to be the biggest need. The only place we could get enough water to take care of the population—we were already on water rationing when I took office—was to go 42 miles away. The cost of that project—the interest alone on the cost of that project exceeded all the revenue for the city of Gillette. It did not leave me a lot of negotiating capability with anybody. It tied my hands significantly.

I had to come to New York City and prove that we would be able to pay off the water bonds. I had to go to New York to go to the rating agencies so we could get a good enough rating that I could get revenue so we could afford the whole thing. The ironic part of it was, it was when New York City was going broke. New York City was going broke. Mayor Lindsay was having a few problems with the city. The questions I got were very difficult to handle for a small town in Wyoming because they were basing them on a big city in New York. They wanted to know if we were going to run into the same problems New York City had.

Well, the big problem that New York City had was that they bargained early retirement for firefighters and police, so they only had to work 20 years until they could get their retirements. So they worked for 20 years. They were only 40 years old. They had two people retired for every one person who was working. It is hard to provide police protection if you have twice as many people retired as you have working, and you have to pay all of these people who are not working their retirement. It created a huge problem for New York. They did not need us to say: You have to have collective bargaining, because they already had collective bargaining. So we did not have collective bargaining. I was able to explain why our policemen would work a little bit longer and be a productive part of the police force longer than in New York City. I got the rating I needed on the bonds and was able to build the water project. It has been a good source—and still is a good source—of water. But now the town has had another one of those booms where they probably doubled or maybe tripled in size. That will require a lot more water. Water is a basic need for communities. So I do not feel comfortable imposing on them any kind of requirements of how they are supposed to do their business. They are right there where the people are. They are in the best position to know what the community needs and wants the most.

When I was mayor, I used to talk about the ''oh, by the ways.'' That is when you are walking down the street or you are out to dinner, even with your family, and people come up and say: Oh, by the way, I have this little problem. Don't get up and solve it right now. Tomorrow will be fine. But they do intend for you to solve that problem by tomorrow.

Now, the whole discussion today has made it sound as though municipalities are enemies of public service and public safety employees. I do not know of any communities where that is true. To make it sound as though the whole country works against the policeman, against the fireman, against the first responders because there is not a collective bargaining law, is wrong. There is an old expression: You can't fight city hall. My opinion of that is, if you can't, you never tried it. Because the people at city hall are responsive. The mayors and the council keep their job if they take care of the problems the people have. If they do not, they are out of there—probably not just one at a time, but en masse. They do not try to pick out exactly who made the bad decisions; they just get rid of them. So towns have to be responsive to all of their employees.

As I said before, I think there are probably a lot of employees out there who say: How come I am not important? How come just the firefighters, just the police, just the first responders are important? I am important too, and this leaves me out.

So we are trying to make some points while a big public relations event is going on here this week. I finally figured out that is why this bill has been brought up at this time, even though it has not gone through committee or had any hearings in the Senate. On bills that came before this committee before, we tried to avoid the heat of the moment because I have found in legislating, if it is worth reacting to, it is worth overreacting to. I think what we have here is a little bit of an overreaction, and there is not going to be much chance to make any changes in it.

I have been kind of keeping track of time here. I know we had about the same number of speakers, but we certainly did not have the same amount of time to speak. I also know the leader also already sent out the word there were not going to be any more votes today. Well, since we have not gotten to address this bill before with the rest of the body, I have asked all of them to pay attention to the amendments we are doing. But I would hesitate to offer any more amendments when I know everybody has gone home. They are all out to dinner by now.

I do not think this is the way we should try to do business. I do not think it was intentional. But I think it certainly puts us at a disadvantage when we are trying to bring up some things that point out some difficulties with this particular bill—offering some responsible amendments, regardless of how they are portrayed.

So with that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, I think we have had a good discussion today on this legislation. I hope we will have a chance to look over the RECORD tonight. We have four pending amendments. We understood Members wanted to talk about these measures, and they wanted to give consideration to them. So we will be ready. There is another group of amendments that I believe have been filed, but we are checking with their authors whether they want to call those up. So I think in the totality of things we have made some good progress today.

I understand we will be on this legislation in the mid or late morning tomorrow. We look forward to that opportunity to further respond to questions and to consider other amendments. We would certainly look forward to the authors of these amendments being ready to give consideration to voting on some of these measures. I think they are all—at least the amendments we have seen—pretty straightforward. I have responded to a few this afternoon. We will have a chance to further respond in the morning. But I think we will be prepared to keep the process moving and move ahead. There are matters which should

be discussed and debated. We look forward to that debate and discussion as well tomorrow.

At least now, we have no further speakers on this legislation at this time. I see our friend from Iowa on his feet.

MORNING BUSINESS

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 3014 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

SURVIVAL OF THE MIDDLE CLASS

Mr. SANDERS. Mr. President, about a month ago on my Web site, which is sanders.senate.gov, I requested that Vermonters e-mail me about what the collapse of the middle class means to them personally—not in esoteric economic terms but in a sense of what they are going through.

Frankly, we are a small State, and our people are pretty reticent. People in Vermont don't like to open up and tell everybody all of the problems they have. They try to keep it to themselves. We expected that we would receive perhaps a few dozen replies. In fact, over the last month, we have received some 700 e-mails that came into my office talking about how people in the middle class today are trying desperately to survive. About 90 percent of the e-mails came from the State of Vermont. We have had a number from around the rest of the country.

I sometimes think that many of our colleagues here really don't have much of a clue about what is going on in the real world. It is no great secret that the Halls of Congress are filled with lobbyists who make hundreds of thousands of dollars a year representing the energy companies, the coal companies, the oil companies, the drug companies, the insurance companies, the banks, and the credit card companies. They are all over the place, and they try to influence—and are successful in many instances—in influencing Congress to pass legislation that protects the interests of multinational corporations or the wealthiest people in this country. It is far too rare that we hear the pain and the reality of life that is going on among ordinary people, especially people who come from a rural State such as mine.

What I wish to do is spend most of my time doing nothing more than just reading to my colleagues and for the American people some of the reality that takes place in a small, rural State which I think is not radically different from what is taking place today all over this country. All of these are verbatim e-mails that I received from families in the State of Vermont. Let me begin by reading one which says:

> I make less than $35,000 a year and work hard to earn it. I am trying to get by with rising costs of fuel. I have a wife and four kids that I love dearly and I am trying to do the best that I can for them. With the cost of gas pushing $4 a gallon and the price of heating oil up to over $4 a gallon, it is hard to make ends meet. On top of that, the furnace that heats the house and keeps my kids warm died today, and while it will not need to run much longer, the nights are still too cold for a 3-year-old. I am not sure how I am going to pay for the repairs. I never thought that I would be classified as poor having grown up in an upper middle class family, but that is where I am now. I don't know what we need to do, but I know we need to do something before the middle class is a thing of the past.

As I read these stories, what you are going to hear today in the year 2008 is that children are going cold in America, and we have to understand that. This is one example. I will read more. Anyone who thinks it is not true doesn't know what is going on in the real world. Here is another e-mail that I received:

> I am a teacher with 20 years of experience, and I have a master's degree. As a single parent, I am struggling every day to put food on the table.

This is a teacher with a masters degree.

> Our clothes all come from thrift stores. I have a 5-year-old car that needs work. My son is gifted and talented. I tried to sell my house to enroll him in a school that had curriculum available for his special needs. After two years on the market, my house never sold. The property taxes have nearly doubled in 10 years, and the price of heating oil is prohibitive. To meet the needs of my son, I let the house sit and moved into an apartment near his high school. I don't go to church many Sundays because the gasoline is too expensive to drive there.

Now, I wonder how many people all over this country are facing that same reality. I will read right from her letter:

> I don't go to church many Sundays because the gasoline is too expensive to drive there.
>
> Every thought of an activity is dependent on the cost. I can only purchase food from dented can stores. I don't know how I can continue this way for two more years of my son's high school; yet, I am trying to meet his academic and psychological needs. I know that I will never be able to retire on a teacher's retirement with no insurance. I am stretched to the breaking point, with no help in sight.

That is a teacher with a master's degree. This is not somebody who is unemployed, who never graduated high school. This is solid middle class. This is her reality.

Here is another story:

> My wife and I live in rural Vermont. We own a home and make about $75,000 a year combined.

That is, in Vermont, not a bad income.

> We own two vehicles and travel about 74 miles a day roundtrip to get to our jobs. Not only is the price of gas killing us, I have been displaced from two jobs in the last nine years due to the exportation of jobs overseas. My current job is in jeopardy of being downsized due to the economy. Every job I have had since I moved here in 1999 has paid less, with less benefits. We are spending our life savings just to make ends meet.

When you read these stories, you hear recurring themes: The price of gas and people losing jobs due to outsourcing. Over and over again, these themes appear. I want to reiterate that these are not ''poor'' people, homeless people, people without any education. These are people who once considered themselves to be part of the American middle class. Similar to millions and millions of other people, that middle-class life is rapidly disappearing.

Here is another one:

> I work full-time at the largest hospital in Vermont. I am in more debt now than I was 10 years ago as a single mother going full time to college and waitressing to make ends meet. When is something going to be done to lower gas prices, which have exponentially raised the cost of everything? I would love to just tell my children, ''Yes, we can go out to the movies'' and not have it break the bank.

In other words, what you are seeing all over this country is for people who take a ride to church or go to the movies, they can no longer perform these basic joys of life because they cannot afford to do that anymore.

Here is another letter:

> My husband and I have lived in Vermont our whole lives. We have two small children (a baby and a toddler) and felt fortunate to own our own house and land, but due to the increasing fuel prices we have at times had to choose between baby food, diapers, and heating fuel. We've run out of heating fuel 3 times so far, and the baby has ended up in the hospital with pneumonia 2 of the times. We try to keep the kids warm with an electric space heater on those nights, but that just doesn't do the trick.
>
> My husband does what he can just to scrape enough money for car fuel each week, and we've gone from 3 vehicles to 1 just to try and get by without going further into debt. We were going to sell the house and rent, but the rent around here is higher than what we pay for our monthly mortgage and property taxes combined. Please help.

This is the story in America in 2008—a family not having enough heat and their child getting pneumonia. This is the United States of America in 2008. She asks, ''Please help.'' Well, let's help.

This is from north central Vermont:

> Due to illness, my ability to work has been severely limited. I am making $10 an hour and if I am lucky, I get 35 hours a week of work. At this time, I am only getting 20 hours as it is ''off season'' in Stowe.

That is a major recreation area in Vermont.

> It does not take a mathematician to do the figures. How are my wife and I supposed to