

MOTION TO COMMIT WITH AMENDMENT NO. 4750

Mr. MCCONNELL. Mr. President, I move to commit the bill to the Judiciary Committee with instructions.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] moves to commit the bill to the Judiciary Committee with instructions to report back forthwith with an amendment numbered 4750.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4751

(Purpose: To address gun violence and improve the availability of records to the National Instant Criminal Background Check System)

Mr. MCCONNELL. Mr. President, I send a Grassley amendment to the instructions to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. GRASSLEY, proposes an amendment numbered 4751 to the instructions of the motion to commit.

Mr. MCCONNELL. 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 printed in today's RECORD under "Text of Amendments.")

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4752 TO AMENDMENT NO. 4751

Mr. MCCONNELL. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4752 to amendment No. 4751.

Mr. MCCONNELL. 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:

At the end add the following:

This Act shall take effect 1 day after the date of enactment.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk for the Grassley amendment.

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

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Senate amendment No. 4751, to the instructions of the motion to commit H.R. 2578, an act making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2016, and for other purposes.

Mitch McConnell, Roger F. Wicker, Thad Cochran, Tom Cotton, Thom Tillis, John Boozman, Richard C. Shelby, John Hoeven, Pat Roberts, Joni Ernst, Mike Rounds, John Cornyn, John Barrasso, Deb Fischer, Johnny Isakson, David Vitter, James M. Inhofe.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk for the motion to commit with instructions.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the McConnell motion to commit H.R. 2578 to the Judiciary Committee with instructions (Murphy amendment No. 4750).

Harry Reid, Jeff Merkley, Jeanne Shaheen, Kirsten E. Gillibrand, Amy Klobuchar, Claire McCaskill, Debbie Stabenow, Charles E. Schumer, Sherrod Brown, Mark R. Warner, Richard Blumenthal, Tom Udall, Tammy Baldwin, Jack Reed, Robert P. Casey, Jr., Angus King, Jr., Brian E. Schatz.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk for the Cornyn amendment.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Senate amendment No. 4749 to amendment No. 4720 to Calendar No. 120, H.R. 2578, an act making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2016, and for other purposes.

Mitch McConnell, Tom Cotton, Thom Tillis, John Boozman, Richard C. Shelby, John Hoeven, Pat Roberts, James M. Inhofe, David Vitter, Joni Ernst, Mike Rounds, John Cornyn, John Barrasso, Deb Fischer, Cory Gardner, Shelley Moore Capito, Johnny Isakson.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk for the Feinstein amendment.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Feinstein amendment No. 4720 to Shelby amendment No. 4685 to H.R. 2578.

Harry Reid, Jeff Merkley, Jeanne Shaheen, Kirsten E. Gillibrand, Amy Klobuchar, Claire McCaskill, Debbie Stabenow, Charles E. Schumer, Sherrod Brown, Mark R. Warner, Richard Blumenthal, Tom Udall, Tammy Baldwin, Jack Reed, Robert P. Casey, Jr., Angus King, Jr., Brian E. Schatz.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the mandatory quorums for the cloture motions be waived.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

The Senator from Arkansas is recognized.

TRIBUTE TO MARION FLETCHER

Mr. COTTON. Mr. President, I would like to recognize Marion Fletcher of Hot Springs, AR, as this week's Arkansan of the Week, for 53 years of service to agriculture education in Arkansas. Marion recently retired, and I would like to take a few moments to recognize his legacy and his impact.

Arkansas is a rural State, and for Arkansans agriculture isn't just an industry. It is a way of life. Over the last five decades, Marion has been a fixture in the Arkansas agriculture community, serving in dozens of roles in countless organizations, impacting every person he met.

To say he is passionate about agriculture education is an understatement. Since 1997, Marion worked as the State supervisor and program manager of agricultural education at the Arkansas Department of Workforce Education, and before that he spent 30 years in numerous roles with the Arkansas Department of Education, Vocational and Technical Education Division. He also had a 3-year stint as an ag

instructor at Desha Central Schools. Locally, he has been a dedicated board member of the Garland County Farm Bureau for over 30 years.

But Marion's service isn't just limited to Arkansas. He has also played an important role in the National FFA, where he has been a member of the board of directors, served as national treasurer, and has been a part of various task and action force committees. To quote longtime friend Keith Stokes, "there is not a young person who went through the FFA program that was not influenced in a positive way by Mr. Fletcher."

His hard work hasn't gone unnoticed, and he was honored with the first-ever National FFA Advisor's Golden Owl Award. He has also received the FFA VIP Award, recognition in the Arkansas Agriculture Hall of Fame, Arkansas's "service to citizens" award, and a litany of others on a long list of well-deserved commendations.

The honors, distinctions, and accolades earned by Marion are endless. Like those before me, I am proud to honor Marion's work and legacy. He is an outstanding Arkansan, and our State agriculture industry is better because he committed his life to agriculture education.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

USA FREEDOM ACT

Mr. WYDEN. Mr. President, in the aftermath of the horrific tragedy in Orlando, Americans are understandably concerned about whether law enforcement and intelligence officials have the tools they need to keep our people safe. I share these concerns and have for quite some time.

In 2013, I proposed that the government be authorized to obtain phone, email, and other records immediately in emergency situations and then after the fact come back for court review. That proposal I made in 2013 became law as part of the USA FREEDOM Act—it is section 102 of the USA FREEDOM Act—and as of today, that legislation I authored gives the FBI more authority to move immediately when they believe it is essential to protect the safety and well-being of Americans and our families.

I don't take a backseat to anybody when it comes to supporting efforts that are going to do everything possible to make Americans safer in their communities. So right now—and this is so often the case after a tragedy—when Americans want to be safer and they want their liberties, all too often proposals are advanced that in so many instances don't do much of either.

It is for that reason that I have come to the floor to express my concern about the sweeping surveillance amendment that was proposed this morning by the senior Senator from Texas. In my view, it is important for colleagues to see that this proposal would dramatically and unnecessarily expand the government's ability to conduct surveillance of Americans without court oversight.

In my judgment, it would not make our country any safer. The real implications are that it could significantly undermine the constitutional rights of law-abiding Americans, largely to save some paperwork for law enforcement officials.

As was described on the Senate floor this morning, this amendment would authorize individual FBI field offices to demand Americans' email and Internet records simply by issuing what is called a national security letter, which means there really is no court oversight whatsoever.

This authority currently exists for phone records, and law enforcement officials have repeatedly suggested that it would be convenient for email and Internet records to be collected in the same way. The FBI has not suggested that they are currently unable to obtain these records in counterterrorism investigations. Law enforcement officials have simply been arguing that it would be more convenient to operate without judicial oversight. I find this position very troubling because I don't see anything in the writings of the Founding Fathers that says convenience alone should justify a dramatic erosion of the constitutional rights of law-abiding Americans.

It is important to understand that this sweeping expansion of surveillance authorities is not necessary. If FBI officials have reason to suspect an individual is connected to terrorism or espionage, they already have the ability to access that person's email and Internet records by simply obtaining an order in the Foreign Intelligence Surveillance Court. These orders can be issued in secret and require relatively little evidence. The FBI just needs to assert that the records are "relevant to an investigation," and that is not difficult to do. But requiring the approval of an independent judge provides an important chapter against the abuse or misuse of this authority. By contrast, national security letters are not reviewed by a judge unless a company that receives one attempts to challenge it.

As I indicated earlier this afternoon, I appreciate the FBI's interest in obtaining records about potential suspects quickly, but my view is that Foreign Intelligence Surveillance Court judges in the typical situation are very capable of reviewing and approving requests for court orders in a timely fashion, and that is why I made mention of it.

If the government thinks that there is an emergency situation and that

time is so critical, the government can use that section of the USA FREEDOM Act that I authored, Section 102, to obtain records immediately in an emergency situation and then go seek court review after the fact.

As I indicated, I have been supportive of this for quite some time, but I think giving the government the authority to move in emergency situations is very different from giving the government substantial new surveillance authority just because some officials don't like doing paperwork. If the FBI's own process for reviewing orders is too slow, then the appropriate solution is administrative reforms, not a major expansion of government surveillance authorities.

While this amendment would not apply to the text of emails, it would allow the FBI a wide variety of information, including records of whom individuals exchange emails with and when, as well as individuals' log-in history, IP addresses, and Internet browsing history. This sort of surveillance can clearly reveal an extensive amount of information about individual Americans. Our Founding Fathers rightly argued that these kinds of intrusive searches ought to be approved by independent judges.

At this point, I believe it is worth noting that President George W. Bush's administration reached the same conclusion that I have described this afternoon. In November of 2008, the Justice Department's Office of Legal Counsel advised the FBI that national security letters could only be used to obtain certain types of records, and this list did not include electronic communication records. The FBI has, unfortunately, not adhered to this guidance and has at times continued to issue national security letters for electronic communications records. A number of companies that have received these overly broad national security letters have rightfully challenged them, as I have indicated, as improper. Broadening the national security letter statute to include electronic communication transaction records would be a significant expansion of warrantless surveillance authority.

Unfortunately, the government's track record with its existing national security letter authorities includes a substantial amount of abuse and misuse. These problems were extensively documented by the Justice Department's inspector general in 2007, 2008, 2010, and 2014. In my judgment, it would be reckless to expand this particular surveillance authority when the government has so frequently failed to use its existing authorities responsibly.

In 2013, President Obama's surveillance review group looked at the national security letter statute. This group included a number of distinguished national security leaders, including former White House counterterrorism adviser Richard Clarke and former Acting CIA Director Mike Morell. They determined—and I think