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House of Representatives

The House was not in session today. Its next meeting will be held on Sunday, December 30, 2012, at 2 p.m.

Senate

FRIDAY, DECEMBER 28, 2012

The Senate met at 9 a.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O mighty God before whom the generations rise and pass away, watch over America and use our Senators to keep it strong and good. Imprint upon their hearts such reverence for You that they will be ashamed and afraid to offend You. Remind them that their thoughts, words, and deeds are under divine scrutiny. Bless the many others who work faithfully on Capitol Hill and whose labors bring dignity and efficiency to the legislative process.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 28, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. DURBIN. Mr. President, following leader remarks, the Senate will begin consideration of H.R. 5949, the FISA reauthorization bill. At approximately 9:45 a.m. this morning, there will be several, up to 25, rollcall votes in order to complete action on the FISA bill and on the supplemental appropriations bill. The Senate will recess from 12:30 p.m. to 2:15 p.m. to allow for caucus meetings.

Additional votes in relation to executive nominations are possible today.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

FISA AMENDMENTS ACT REAUTHORIZATION ACT OF 2012

The ACTING PRESIDENT pro tempore. The Senate will proceed to the consideration of H.R. 5949, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5949) to extend the FISA Amendments Act of 2008 for five years.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

AMENDMENT NO. 3439

Mr. WYDEN. I ask unanimous consent to call up my amendment which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself, Mr. UDALL of Colorado, Mr. LEE, Mr. DURBIN, Mr. MERKLEY, Mr. UDALL of New Mexico, Mr. BEGICH, Mr. FRANKEN, Mr. WEBB, Mrs. SHAHEEN, Mr. TESTER, Mr. BINGAMAN, Mr. LAUTENBERG, Mr. COONS, and Mr. BAUCUS proposes an amendment numbered 3439.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a report on the impact of the FISA Amendments Act of 2008 on the privacy of the people of the United States)

At the end, add the following:

SEC. 5. REPORT ON THE IMPACT OF THE FISA AMENDMENTS ACT OF 2008 ON THE PRIVACY OF THE PEOPLE OF THE UNITED STATES.

(a) FINDINGS.—Congress makes the following findings:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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(1) The central provision of the FISA Amendments of 2008 (Public Law 110–261; 122 Stat. 2436) enacted section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a) which provides the government authority to collect the communications of persons reasonably believed to be citizens of foreign countries who are located outside the United States.

(2) Such section 702 contained restrictions regarding the acquisition of the communications of United States persons which were intended to protect the privacy of United States persons and prevent intelligence agencies from using the authority in such section to deliberately read or listen to the communications of specific United States persons without obtaining a warrant or emergency authorization to do so.

(3) Estimating the total number of communications to or from the United States collected under the authority in such section 702 would provide an indication of the degree to which collection carried out under such section has impacted the privacy of United States persons.

(4) Estimating the number of wholly domestic communications collected under the authority in such section 702 would provide a particularly significant indication of the degree to which collection carried out under this authority has impacted the privacy of United States persons.

(5) While Congress did not intend to provide authority in such section 702 for elements of the intelligence community to deliberately review the communications of specific United States persons without obtaining individual warrants or emergency authorizations to do so, such section 702 does not include a specific prohibition against this action, and the people of the United States have a right to know whether elements of the intelligence community have deliberately searched through communications collected under such section 702 to find the communications of specific United States persons.

(6) Despite requests from numerous Senators, the Director of National Intelligence has declined to state publicly whether—

(A) any entity has made an estimate of the number of United States communications that have been collected under such section 702;

(B) any wholly domestic communications have been collected under such section 702; or

(C) any element of the intelligence community has attempted to search through communications collected under such section 702 in a deliberate effort to review the communications of a specific United States person without obtaining a warrant or emergency authorization permitting such a search.

(7) In public remarks in July 2012, the Director of the National Security Agency stated that ''the story that we have millions or hundreds of millions of dossiers on people is absolutely false''.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the impact of the amendments made by the FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2436) and other surveillance authorities on the privacy of United States persons.

(2) CONTENT.—The report required by paragraph (1) shall include the following:

(A) A determination of whether any government entity has produced any estimate regarding—

(i) the total number of communications that—

(I) originated from or were directed to a location in the United States; and

(II) have been collected under the authority of section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a); or

(ii) the total number of wholly domestic communications that have been collected under such authority.

(B) If any estimate described in subparagraph (A) was produced, such estimate.

(C) An assessment of whether any wholly domestic communications have been collected under the authority of section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a).

(D) A determination of whether any element of the intelligence community has ever attempted to search through communications collected under section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a) in a deliberate effort to find the communications of a specific United States person, without obtaining a warrant or emergency authorization to do so.

(E) A determination of whether the National Security Agency has collected any type of personally identifiable data pertaining to more than 1,000,000 United States persons.

(c) FORM OF REPORT.—

(1) PUBLIC AVAILABILITY OF REPORT.—The report required by subsection (b) shall be made available to the public not later than 15 days after the date such report is submitted to Congress.

(2) REDACTIONS.—If the President believes that public disclosure of information in the report required by subsection (b) could cause significant harm to national security, the President may redact such information from the report made available to the public.

(3) SUBMISSION TO CONGRESS.—If the President redacts information under paragraph (2), not later than 30 days after the date the report required by subsection (b) is made available to the public under paragraph (1), the President shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a statement explaining the specific harm to national security that the disclosure of such information could cause.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 30 minutes of debate, equally divided, prior to the vote on the Wyden amendment.

Mr. WYDEN. Mr. President, given the events of yesterday, this is the last opportunity for the next 5 years for the Congress to exercise a modest measure of real oversight over this intelligence surveillance law. Here is why. Colleagues, it is not real oversight when the Congress cannot get a yes or no answer to the question of whether an estimate currently exists as to whether law-abiding Americans have had their phone calls and e-mails swept up under the FISA law. That is the case today.

Colleagues, it is not real oversight when the Congress cannot get a yes or no answer to the question of whether wholly domestic communications between law-abiding Americans in this country have been warrantlessly intercepted under the law. That is the case today.

Colleagues, it is not real oversight when National Security Agency leadership states in a public forum that the Agency does not keep dossiers on millions of Americans and yet they will not give the Congress a yes or no answer as to whether the Agency collects any sort of data on millions of Americans. That is not the case today.

What this amendment does is it gives us the opportunity to do real oversight—real oversight—by getting yes or no answers to questions that have been asked repeatedly by members of the Intelligence Committee. The amendment, in order to ensure that national security is protected at an important time in our country's history, gives the President of the United States unfettered discretion to redact any information he believes is necessary in order to protect the country's national security. The amendment does not require any agency to do new work. We have heard cited repeatedly it would be impossible to do an estimate on projections that have been discussed in the past. So we have changed course and we have said all we are seeking is a yes or no answer to the question of whether an estimate has actually been done.

This is an important time for American security. It will always be an important time for American security. It is also an important time for American liberty, and this amendment ensures we can strike the appropriate balance between protecting our country's well-being and also protecting the individual liberties we all cherish.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise in opposition to the amendment. This amendment would require the Director of National Intelligence to issue a public report within 90 days, assessing the impact of the FISA Amendments Act and its surveillance authorities on the privacy of U.S. persons.

That sounds benign, but it is not. The goal of this amendment is to make information public about a very effective intelligence collection program that is currently classified. All of the information has already been made available to the Senate Intelligence and Judiciary Committees. It is available to all Members. All they have to do is read it. It is hundreds of pages of material.

Senator WYDEN has raised a number of issues that all concern the potential for surveillance conducted pursuant to authorities to result in what is called ''incidental collection.'' Section 702 authorizes the executive branch to go to the FISA Court—that is a Federal court, Federal district judges appointed by the Chief Justice of the Supreme Court—and obtain annual approval for the certifications of the Attorney General and the DNI that identify categories of foreign targets. These are what I call a program warrant, to conduct surveillance on non-U.S. persons; in other words, individuals who are not U.S. citizens or lawful permanent residents who are located outside the United States.

It is possible there can be some incidental collection of communications of

or concerning those who are U.S. persons. This potential for incidental collection does not mean the intelligence community is intentionally conducting surveillance on U.S. persons. In fact, doing so would be a violation of the law.

Here is the key point to understand about incidental collection. Although the government may, under the right circumstances, be authorized to retain the communication between—as an example—known terrorists and a presumptive U.S. person or persons, including the phone number he relayed to the terrorist, the government cannot place the U.S. number on surveillance and start collecting the calls to and from the U.S. number without first obtaining an individual court order or a warrant. To do so would be to target a U.S. person, which I will explain is reverse targeting.

Let me answer another common question: Can the government use section 702 to target a U.S. person? This is important. The answer is no. The law specifically prevents the use of section 702 to direct collection against U.S. persons. This prohibition is codified in 702(b), which states that the section may not be used to ''intentionally target any person known at the time of acquisition to be located in the United States'' or to ''intentionally target a United States person reasonably believed to be located inside the United States.''

Another frequent question: Is there a loophole or backdoor that allows the government to use 702 to target U.S. persons by searching incidental collection? Answer: No. The Department of Justice, the DNI's offices, the FBI, and NSA have all advised that limiting the ability of intelligence analysts to review and analyze information already in the government's possession under section 702 would make these agencies less able to respond quickly during a developing terrorist plot.

In sum, review of the information already collected enables the government to protect against a terrorist attack on this Nation.

Regarding the level of oversight conducted on these authorities, as of October 7, 2011, the congressional Intelligence and Judiciary Committees received over 500 pages of information from the Department of Justice that specifically relate to matters covered by the Wyden amendment. The Senate Intelligence Committee held a closed hearing in October 2011 on these issues. The senior Senator from Oregon attended. These were the issues specifically discussed. In December of 2011, the congressional Intelligence and Judiciary Committees received in excess of another 100 pages of material relating to these issues.

We held another closed hearing on February 9, 2012, which the Senator from Oregon attended, where these issues were discussed. The inspectors general for the intelligence community and NSA have both provided classified and unclassified responses to letters written by the Senator from Oregon and the Senator from Colorado, explaining why it is not feasible to estimate the number of people inside the United States who have had their communications collected or reviewed under the authorities granted by section 702. Finally, the DNI sent a letter in August on this issue.

Here is the point. If we want to talk about oversight, all of the information exists, and it is up to Intelligence Committee of the Senate to do its oversight and Members have to go in and read the material.

I believe very strongly that what this amendment aims to do is make public a program that should not be made public at this time. I urge my colleagues to oppose this amendment.

Finally, I request that a letter from General Alexander, head of the National Security Agency—which essentially explains remarks he made—be printed in the RECORD. I would also like to have the letter to the general from the Senator from Oregon printed in the RECORD.

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

DEPARTMENT OF DEFENSE,
NATIONAL SECURITY AGENCY,
Fort George G. Meade, MD, Nov. 13, 2012.

Hon. Ron Wyden,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR WYDEN: Thank you for your letter dated 10 October 2012 concerning issues related to the National Security Agency's (NSA's) handling of U.S. person communications. As you know, NSA takes great care to protect the civil liberties and privacy interests of U.S. persons in the conduct of its mission.

Your letter requested clarity and further information with respect to my extemporaneous response to a question posed by a member of the audience following my formal presentation on cybersecurity delivered on 27 July 2012, at DEFCON 20. At the conference, a member of the audience asked me: ''Does NSA really keep a file on everyone [in the United States] and, if so, can I see mine?'' I responded: ''Absolutely not. And anybody who would tell you that we're keeping files or dossiers on the American people know[s] that's not true and let me tell you why. First, under our Agency we have a responsibility. Our job is foreign intelligence.'' I then gave a short explanation of how we execute our foreign intelligence mission and the oversight provided by all three branches of government, including Congress, before reiterating that ''the story that we have millions or hundreds of millions of dossiers on people is absolutely false.'' I referred to the fact that Section 702 of the Foreign Intelligence Surveillance Act, as amended by the FISA Amendments Act of 2008 (FAA 702), permits the targeting only of communications of non-U.S. persons reasonably believed to be located outside of the United States. Finally, I highlighted the role served by minimization procedures to provide additional protection to incidentally collected communications of U.S. persons.

First, with respect to the reference to minimization procedures, my response should be understood in the context in which it was made. I noted at the outset that NSA has a foreign intelligence mission, and my subsequent reference focused on the type of circumstance in which U.S. person information may be disseminated when this foreign intelligence requirement is not met (e.g., when there is evidence of a crime). As you are aware, the statutory requirements for minimization procedures are a matter of public record:

Section 101(h)(1) of FISA requires that minimization procedures must be ''reasonably designed . . . to minimize the acquisition and retention and prohibit the dissemination, of nonpublicly available information concerning unconsenting U.S. persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information.''

Section 101(h)(2) of FISA requires that ''nonpublicly available information which is not foreign intelligence information shall not be disseminated in a manner that identifies any U.S. person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance.''

Section 101(h)(3) of FISA permits both retention and dissemination where there is ''evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.''

Section 101(h)(4) of FISA permits disclosure, dissemination, or use for any purpose or retention for 72 hours, or longer if a determination is made by the Attorney General, ''if the information indicates a threat of death or serious bodily harm to any person.''

Second, my response did not refer to or address whether it is possible to identify the number of U.S. person communications that may be lawfully but incidentally intercepted pursuant to foreign intelligence collection directed against non-U.S. persons located outside the United States as authorized under FAA 702.

In your letter, you asked for unclassified answers to several questions that you feel are important to allow the public to better understand my remarks delivered at the conference. While I appreciate your desire to have responses to these questions on the public record, they directly relate to operational activities and complete answers would necessarily include classified information essential to our ability to collect foreign intelligence. Indeed, as you are aware, these very questions were recently addressed in a classified letter to you from the Director of National Intelligence dated 24 August 2012.

Finally, as you are also aware, senior officials from the Administration, including the Office of the Director of National Intelligence, the Justice Department, and NSA, have testified and briefed before the relevant Congressional committees on multiple occasions over the past year. We have also conducted numerous sessions with committee staff and counsel, as well as correspondence and discussions with individual Senators and Representatives. As a result of the many briefings, hearings, and other interactions between the Intelligence Committees and the Administration, there exists a comprehensive Congressional record relating to all of NSA's foreign intelligence activities (including information relevant to the questions you pose).

Again, thank you for your ongoing interest in these issues. Regardless of differences that may exist on policy issues, I cannot overstate the importance or value of ongoing Congressional interest and oversight of NSA's operations, acting on behalf of the American people. If you have further questions, please contact me personally or have your staff contact my Associate Director for

Legislative Affairs, Ethan L. Bauman, at (301) 688–7246.

KEITH B. ALEXANDER,
General, U.S. Army Director, NSA.

U.S. SENATE,
Washington, DC, October 10, 2012.

General KEITH ALEXANDER,
Director, National Security Agency,
Fort Meade, MD.

DEAR GENERAL ALEXANDER: You spoke recently at a technology convention in Nevada, at which you were asked a question about NSA collection of information about American citizens. In your response. you focused in particular on section 702 or the FISA Amendments Act of 2008, which the Senate will debate later this year. In describing the NSA's collection of communications under the FISA Amendments Act, you discussed rules for handling the communications of US persons. Specifically, you said:

We may, incidentally, in targeting a bad guy hit on somebody from a good guy, because there's a discussion there. We have requirements from the FISA Court and the Attorney General to minimize that, which means nobody else can see it unless there's a crime that's been committed.

We believe that this statement incorrectly characterized the minimization requirements that apply to the NSA's FISA Amendments Act collection, and portrayed privacy protections for Americans' communications as being stronger than they actually are. We urge you to correct this statement, so that Congress and the public can have a debate over the renewal of this law that is informed by at least some accurate information about the impact it has had on Americans' privacy.

You also stated, in response to the same question, that ". . . the story that we have millions or hundreds of millions of dossiers on people is absolutely false". We are not entirely clear what the term "dossier" means in this context, so we would appreciate it if you would clarify this remark. Specifically, we ask that you please answer the following questions:

The intelligence community has stated repeatedly that it is not possible to provide even a rough estimate of how many American communications have been collected under the FISA Amendments Act, and has even declined to estimate the scale of this collection. Are you certain that the number of American communications collected is not "millions or hundreds of millions"? If so, then clearly you must have some ability to estimate the scale of this number, or at least some range in which you believe it falls. If this is the case, how large could this number possibly be? How small could I possibly be?

Does the NSA collect any type of data at all on "millions or hundreds of millions of Americans"?

Since you made your remarks in an unclassified forum, we would appreciate an unclassified response to these questions, so that your remarks can be properly understood by Congress and the public, and not interpreted in a misleading way. Additionally, since the Senate will debate this issue during the November/December 2012 session, please provide your response by November 13.

If you have any questions concerning this request, please have your staff contact John Dickas of Senator Wyden's staff, or Jennifer Barrett of Senator Udall's staff. We appreciate your attention to this matter and look forward to your prompt response.

Sincerely,

RON WYDEN.
MARK UDALL.

Mrs. FEINSTEIN. I thank the Chair and yield the floor to the vice chairman for the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I oppose Senator WYDEN's amendment also because it imposes an unreasonably burdensome reporting requirement on the DNI and is inconsistent with the purpose of FISA, which is to obtain foreign intelligence information. This amendment would require the diversion of scarce intelligence personnel and resources away from the identification of foreign intelligence information but, rather, to assess whether any wholly domestic communications have been inadvertently collected under FAA authorities. This is an unnecessary and pointless exercise. The collection system was designed to comply with FISA's clear prohibition against the intentional collection of wholly domestic communications.

I will read how specific this is in the law. This is directly out of section 702, which the amendment seeks to attack. There are limitations against collection of information under the following guise:

An acquisition authorized under subsection (a)—

Which is to collect information from those located outside the United States. We:

may not intentionally target any person known at the time of acquisition to be located in the United States; may not intentionally target a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States; may not intentionally target a United States person reasonably believed to be located outside the United States.

It goes further into detail and is very specific about the fact that there is no authorization to target U.S. persons.

As the chairman said, it is our duty, as members of the Intelligence Committee, to do the oversight required to make sure these laws are complied with, and we do that. We do it in a very deliberate and direct way by not only having the individuals responsible for the collection of this information made available to the committee, but it goes all the way to the top. The individuals who collect it, as well as the leaders of the intelligence community, come in once a year—and they will come more often than that if there is a problem we need to address—and we review this information.

The Senator from Oregon, the distinguished Presiding Officer, members of the Intelligence Committee, know the type of oversight that is available to us. So if there is any question about what is done and whether section 702 is not being complied with, we have the opportunity to ask the questions.

The amendment by the distinguished Senator from Oregon actually goes further than what he said was a simple yes-or-no question and requires that the intelligence community go into great detail on any estimate or any finding where a U.S. person may have been involved. Is that the type of information we need for our intelligence community to spend their time on versus trying to find bad guys around the world? I think the answer is pretty simple.

As we said yesterday, if there is a problem and the problem is addressed by the intelligence community and the Intelligence Committees on both the House and Senate side, it is not abused. If there is a problem, we fix it. There are minimization procedures that are in place which address this issue that are used when necessary. If we do our job, there is absolutely no reason for this amendment—and we do our job.

The chairman is very diligent in making sure the annual reviews are set at specific times of the year. Every member of the committee has an obligation to be at the hearings to ask the tough and right questions. As far as I know, every member of the committee has done that. We have provided the right kind of oversight.

I encourage my colleagues to vote against this because it is simply an unnecessary amendment, and it is the last amendment we have to consider. As we said over and over yesterday, we have to get this bill on the desk of the President by December 31, which is 3 days away.

It is important we conclude this morning, that the bill be sent to the President's desk so we can sign it, and we can continue to provide the right kind of supervised collection against foreign individuals to make sure America and Americans are protected.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise in support of the Wyden amendment. Before I share my thoughts, I wanted to express my respect and admiration for the chairwoman and vice chairman of the Senate Intelligence Committee. They are professional, easy to work with, and have the security of our people front and center at all times.

As a member of the Senate Intelligence Committee, I have learned a great deal with respect to our post-9/11 surveillance laws and how they have been implemented. In the course of my 2 years on the committee, I have determined there are reforms which need to be made to the FISA Amendments Act before we renew this important law.

Earlier this year, Senator WYDEN and I opposed the bill reported out of the Senate Intelligence Committee extending the expiration date of the FISA Amendments Act because we believe Congress does not have an adequate understanding of the effect this law has had on the privacy of law-abiding American citizens. In our view it is important for Members of Congress and the public to have a better understanding of the foreign intelligence surveillance conducted under the FAA so Congress can consider whether the law should be modified rather than simply extended without changes.

That is the simple purpose of the amendment Senator WYDEN, other colleagues, and I have filed—to make more information available to Members of Congress and the public so they have a better understanding of the law and its imitation.

This amendment requires the Director of National Intelligence to provide information to Congress about the effects of the FISA Amendments Act on the privacy of America, which is something we all hold dear. It would require information on whether an estimation has been conducted of how many U.S. communications have been collected under the FISA Amendments Act and, if so, how many, whether any wholly domestic communications have been collected and whether officials have gone through these communications to conduct warrantless searches for the phone calls and e-mails of specific Americans.

It would not require the intelligence community to conduct any new estimates of Americans whose communications may have been collected under the statute and would give the President full discretion to redact information from the public version of the report.

I will conclude by restating my belief that the American people need a better understanding of how the FISA Amendments Act, section 702, in particular, has affected the privacy of Americans. I also believe we need new protections against potential warrantless searches for Americans' communications. I believe that without such reforms, Congress should not simply extend the law for 5 years.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. I thank my colleague from Colorado. He has been a wonderful partner in this effort to strike a balance between security and liberty. I look forward to working with him in the days ahead.

Mr. President, how much time remains on each side?

The ACTING PRESIDENT pro tempore. Proponents have 8 minutes and the opponents have 2 minutes.

Mr. WYDEN. Mr. President, I say this with the greatest respect to the distinguished chair of the committee—with whom I have worked cooperatively on so many issues—that when she said this amendment seeks to publish names, I would just like to say that is simply and factually incorrect. In no way, shape or form does this amendment seek to publish names, and I wish to tell colleagues that if anyone in connection with this program were to seek to publish names, I would vigorously oppose that effort. I simply just want to make sure the RECORD reflects that.

We have heard by the opponents of this amendment that the intelligence community has already provided the Congress with lots of information about the FISA Amendments Act. However, the reality is a lot more complicated than that. Much of that information is in highly classified documents that are difficult for most Members to review, and the reality is most Members literally have no staff who are cleared to read the documents which have been cited.

So the fact is most Members of Congress don't have staff to help them deal with these complicated issues so they are—in many particulars—in the dark about the program, and certainly the 300 million-plus Americans who expect us to strike that balance between security and liberty are also in the dark.

I have already noted that the amendment gives the executive branch unfettered authority to make redactions, and I just want to make sure every Senator hears the exact language because I think this is as broad a redaction proposal as I have seen in my service on the committee. The redaction proposal states: If the President believes that public disclosure of the report required by this section could cause significant harm to national security, the President may redact such information from the report made available to the public.

I hope colleagues who have asked about whether this would endanger our country and have heard on the floor of the Senate that somehow this amendment would seek to name names—particularly at a dangerous time—will see, No. 1, that is not the case; and No. 2, that the President, as outlined on page 6, has full and unfettered discretion to redact the report as he sees fit.

I also want to respond to this point that there would be no time for this to be considered by the other body if we add this modest measure of oversight. As I understand from the news reporting this morning, the other body will be meeting on Sunday, so they will be here this weekend. The other body is perfectly capable of passing an amended bill, getting it to the President by the end of the month. The distinguished vice chair and I both served in the other body. We know that when they are here—particularly on something that just involves a report—it would be very easy for the other body to pass this and send it to the President. In fact, the House passed the extension a few months ago with over 300 votes. So passing it Sunday when the other body is in session seems to not exactly be a difficult and arduous task.

What it comes down to is what we define robust congressional oversight in a program such as this to be. Again, I respectfully say that without basic information as to whether an estimate even exists—in response to colleagues—this is not talking about anybody going out and doing a lot of work. This is a question of either responding affirmatively or negatively to the question Senator UDALL and I have been asking lo these several years: Does an estimate exist as to whether or not law-abiding Americans have had their communications swept up under this law?

There is a reason to be concerned about this because Senator UDALL and I worked very hard to get at least a little bit of information on this, and we have been able to declassify that there has been a fourth amendment violation in the past.

I believe that without the information Senator UDALL and I have sought that is behind this amendment—those who say there ought to be robust congressional oversight of this program ought to reflect on the fact that without this information which is so essential to do our work, oversight is not robust, it is toothless—it is toothless—if we cannot get an answer to the question as to whether an estimate exists for how many Americans have had their communications swept up.

So I close with this: This is, as the distinguished chair of the committee said earlier, a critically important time for American security. Those of us who serve on the committee—and the distinguished Presiding Officer is part of these briefings—go into the room, and the doors are locked, and we certainly get significant information about the threats and the well-being of this country. So it is an important time for American security. It is also an important time for American liberty.

To paraphrase Ben Franklin, as I did yesterday, those who give up their liberty in order to have security really don't deserve either. The two are not mutually exclusive. We can do both. That is what the constitutional teeter-totter has always been about—security and well-being of our country on the one hand and protecting our liberties on the other.

What Senator UDALL and I contend this morning is that without access to information about critical questions such as whether an estimate even exists as to how many law-abiding Americans have had their communications swept up under FISA, we can't answer the question as to whether the constitutional teeter-totter is in balance. So I hope my colleagues will vote for this amendment given the events of yesterday.

I say to my colleagues that this will be the last opportunity—the last opportunity for 5 years—to exercise some modest measure of real oversight over this program. I hope my colleagues on a bipartisan basis will support this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, we have how many minutes?

The ACTING PRESIDENT pro tempore. There is 2½ minutes remaining.

Mrs. FEINSTEIN. I will use 1 minute.

The fact is, we do an intelligence authorization bill every year. If there is a need to change the law, we can change it there, so this isn't the last opportunity to effect any change on the FISA Amendments Act for 5 years. I believe that it is the last opportunity to see that this program continues on without interruption.

I would also point out that one of the areas in which the administration has really made an effort is to bring leaders of the Intelligence Community—whether it is the DNI or representatives from the Department of Justice—to the Hill and explain to individual Members how this program works.

With respect to the classified material, any Member has access to it; any Member can go up and read this material. The staff of the Intelligence Committee, which helps us conduct this oversight, can read this material. The Members of the Intelligence Committee can read this material. As chairman, if someone finds an irregularity, I am happy to look at it, to have a hearing on it. But to adopt this amendment that would change this program at this time has my very strong opposition. I urge a ''no'' vote.

I yield to the vice chairman.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I would echo what the chairman said—that the very well trained, dedicated staff of the Intelligence Committee is available to assist any Member in reviewing the classified information that is the subject of section 702. That is why they are there. The Senator from Oregon is right. Every Member of Congress doesn't have that highly trained, top-secret staff member, and there are reasons for that. There are reasons why the Intelligence Committee members do have those types of staffers. Those staffers are available at any time for discussion of this issue or, for that matter, any other issue relative to national security that is within the purview of the Intelligence Committee.

So I again say that this amendment is simply totally unnecessary because there are specific and direct prohibitions in the law as well as in court decisions that do not allow our respective intelligence community agencies to listen in or review e-mails or whatever on U.S. citizens unless it is under some sort of court order where probable cause must be shown.

We need to make sure we are equipping our intelligence community agents with every single tool necessary to combat terrorists around the world. This section is critical to doing that. I urge a vote against the amendment.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

Under the previous order, the question is on agreeing to amendment No. 3439 offered by the Senator from Oregon, Mr. WYDEN.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT) and the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 52, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—43

Akaka	Gillibrand	Paul
Baucus	Grassley	Reed
Begich	Harkin	Reid
Bennet	Heller	Sanders
Bingaman	Klobuchar	Schatz
Blumenthal	Landrieu	Shaheen
Brown (OH)	Leahy	Stabenow
Cantwell	Lee	Tester
Cardin	Levin	Toomey
Carper	Manchin	Udall (CO)
Casey	Menendez	Udall (NM)
Conrad	Merkley	Webb
Coons	Murkowski	Wyden
Durbin	Murray	
Franken	Nelson (NE)	

NAYS—52

Alexander	Hagan	Nelson (FL)
Ayotte	Hatch	Portman
Barrasso	Hoeven	Pryor
Blunt	Hutchison	Risch
Boozman	Inhofe	Roberts
Brown (MA)	Isakson	Rockefeller
Burr	Johanns	Rubio
Chambliss	Johnson (SD)	Schumer
Coats	Johnson (WI)	Sessions
Coburn	Kerry	Shelby
Cochran	Kohl	Snowe
Collins	Kyl	Thune
Corker	Lieberman	Vitter
Cornyn	Lugar	Warner
Crapo	McCain	Whitehouse
Enzi	McConnell	Wicker
Feinstein	Mikulski	
Graham	Moran	

NOT VOTING—5

Boxer	Kirk	McCaskill
DeMint	Lautenberg	

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The bill (H.R. 5949) was ordered to a third reading and was read the third time.

Mr. UDALL of New Mexico. Madam President, I rise today to express my longstanding concerns about the FISA Amendments Act of 2008. We are being asked to extend the sunset provisions in the Act until 2017. Without adoption of the amendments to include additional privacy protections and oversight requirements, I cannot support an extension.

We all appreciate the dedicated work of the intelligence community. They have a big job in keeping us safe. But we also have to protect the constitutional rights of American citizens. That goes to the heart of who we are. Of what our country stands for. These aims are not contradictory. We can do both. And we must do both.

The FISA Amendments Act of 2008 gave broad powers to the intelligence community. Too broad, for some of us. I was one of the minority votes in the House against FISA. It allows a very wide net to search phone calls and emails of foreigners outside of the United States.

We knew then, and we know now, that net would also scoop up the private communications of American citizens. The challenge was clear. Go after the bad guys. But do not violate the privacy of the American people. So the Act contained specific limitations.

Now, 4 years later, we are asking a basic question. Have those limitations worked? And the answer is—we really do not know.

This uncertainty is not for lack of trying. We have tried to get answers. Numerous times. But the information is still lacking. Intelligence officials have said they are unable to tell us how many U.S. communications have been collected under FISA authority. Not an actual number. Not an exact number. Not even an estimate.

Plain and simple—we need more information. How else can we evaluate this policy? The American public has a right to know. And needs to know. How many Americans are affected by FISA? Are existing privacy protections working? Are they too weak? Do they need to be strengthened? These are vital questions. They need to be answered. And so far they have not been.

That is why the amendments that have been offered are so important. These amendments are intended to strengthen privacy protections of American citizens and to improve congressional oversight. These amendments will improve FISA. And they deserve bipartisan support.

I want to emphasize my support for Senator WYDEN's amendment that we will vote on this morning. The amendment would require the Director of National Intelligence to report to Congress on the impact of FISA. And provide specific information. In particular, how many U.S. communications have been collected under the Act? Have there been deliberate attempts to search the phone calls or emails of individual Americans? Without obtaining a warrant or emergency authorization?

The Director's report would be available to the public. And the President could withhold public disclosure of any information necessary to national security. This amendment will not compromise national security. But it will help protect the rights of American citizens.

As Senator WYDEN stated on the floor yesterday, several of us sent letters to Director Clapper requesting this information, but have not received an adequate response. The Wyden amendment would ensure that Congress has the information we need to make an informed decision about whether to extend future sunset provisions.

The war on terrorism that began after the 9/11 attacks has continued for over 10 years. During that time, Congress has passed laws, including the PATRIOT Act and FISA Amendments Act, which gave sweeping new authorities to law enforcement and the intelligence community.

I know we must protect the Nation from future attacks. But there must

also be a balance—we cannot give up our constitutional protections in the name of security. I voted against the PATRIOT Act and FISA Amendments Act because I believed they were not balanced—they unduly infringed on the guaranteed rights of our citizens.

As I said, we all value the work of our intelligence community. Their efforts are vital to our Nation's security. But, I believe these amendments are crucial. We can protect our citizens without trampling their constitutional rights.

Unfortunately, none of the amendments we voted on yesterday were adopted. But the main argument I heard against them was not on the substance of the amendments. It was that we do not have time to amend the bill and send it back to the House. The Chair and Vice-chair argued that we must pass the House bill without amendment and get it to the President before the provisions expire.

This is not how the ''world's greatest deliberative body'' should function. It is one more example of why we need to reform our rules so that we are not constantly mired in procedural gridlock. Rather than an 11th hour passage of the House bill, we should have had a real opportunity to debate and amend the Senate bill that came out of committee over 5 months ago.

The PRESIDING OFFICER. The question is on passage of the bill.

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT) and the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 23, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—73

Alexander	Enzi	Lieberman
Ayotte	Feinstein	Lugar
Barrasso	Gillibrand	Manchin
Bennet	Graham	McCain
Blumenthal	Grassley	McCaskill
Blunt	Hagan	McConnell
Boozman	Hatch	Mikulski
Brown (MA)	Heller	Moran
Burr	Hoeven	Nelson (NE)
Cardin	Hutchison	Nelson (FL)
Carper	Inhofe	Portman
Casey	Isakson	Pryor
Chambliss	Johanns	Reed
Coats	Johnson (SD)	Reid
Coburn	Johnson (WI)	Risch
Cochran	Kerry	Roberts
Collins	Klobuchar	Rockefeller
Conrad	Kohl	Rubio
Corker	Kyl	Schumer
Cornyn	Landrieu	Sessions
Crapo	Levin	Shaheen
Shelby	Toomey	Whitehouse
Snowe	Vitter	Wicker
Stabenow	Warner	
Thune	Webb	

NAYS—23

Akaka	Franken	Paul
Baucus	Harkin	Sanders
Begich	Leahy	Schatz
Bingaman	Lee	Tester
Brown (OH)	Menendez	Udall (CO)
Cantwell	Merkley	Udall (NM)
Coons	Murkowski	Wyden
Durbin	Murray	

NOT VOTING—4

Boxer	Kirk
DeMint	Lautenberg

The PRESIDING OFFICER. Under the previous order requiring 60 votes for passage of the bill, the bill (H.R. 5949) is passed.

Mrs. FEINSTEIN. Madam President, I thank my colleagues for their coming to the floor over the past 2 days for a good debate on the reauthorization of the FISA Amendments Act, which the Senate approved today by a vote of 73–23.

As I described a number of times during this debate, this electronic surveillance tool is among the most important intelligence collection measures we have for identifying and thwarting terrorist plots, as well as stopping proliferation of weapons of mass destruction, cyber attacks against the United States, and for intelligence collection to advise policy decisions. Authorizing the statute for another 5 years will put the Nation's intelligence community on strong ground.

I also would like to reiterate the offer I made during the debate to make sure that any Senator interested in getting additional, classified information on the FISA Amendments Act can get that information. In particular, I look forward to working with Senator MERKLEY to see that significant decisions of the FISA Court—or summaries of those decisions—are reviewed and made public in a way that does not compromise classified information. I also will work with Senator LEAHY, the chairman of the Judiciary Committee, to seek any additional reviews by the relevant inspectors general to complement the oversight that is already done every year on FISA programs. I will continue to work with Senators WYDEN and UDALL on the committee to help pursue their oversight requests and interests.

Lastly, but very importantly for me, I would like to thank the staff who have worked over the past four years to conduct oversight of the FISA Amendments Act and who worked to get this legislation approved. Their work includes countless hours of meetings with officials from the Office of the Director of National Intelligence, the Department of Justice, the National Security Agency, and the Federal Bureau of Investigation, and even more time reading and analyzing reports, answers, and communications from those departments and agencies.

On the staff of the Senate Select Committee on Intelligence, I would like to note first and foremost the dedicated efforts and counsel of Christine Healey, the committee's general counsel, and Eric Losick, counsel on the majority side who have been my main advisors on this legislation. I also appreciate their Republican counterparts, Jack Livingston and Kathleen Rice, with whom we have worked closely and collaboratively in this effort.

My appreciation as well goes to Mike Buchwald, my designee on the committee, for his tireless staff work; to Mike Davidson, who was the committee's general counsel during part of this past 4 year period and who set the structure of the committee's ongoing oversight; and to David Grannis, the committee's staff director.

Finally, I deeply appreciate the efforts of the majority leader's people and the floor staff—Tommy Ross, Serena Hoy, Gary Myrick, Tim Mitchell, and Tricia Engle—who got this bill to the floor before the expiration of the FISA Amendments Act and who helped guide it through to passage.

Thanks to the Senate's vote today, this critical intelligence tool will continue to be available to the Nation's intelligence community. The Senate's oversight of it will continue as well, as I intent to continue the committee's careful review of the program for the next 5 years.

Mr. REED. Madam President, major terrorist threats still exist, and it is critical that we do all we can to protect Americans, not only in terms of national security, but also in terms of civil liberties. In voting today to extend the FISA Amendments Act, FAA, for 5 years, I made a difficult judgment as there are still major outstanding concerns. In trying to address these concerns, I supported three amendments that would have made important improvements.

The first was Senator LEAHY's amendment, which sought to align the FAA sunset with the Patriot Act sunset so that both of these national security laws could be evaluated together prior to their expiration. Additionally, this amendment required a comprehensive review of FAA surveillance by the Inspector General of the intelligence community to address privacy concerns that have been raised.

I also supported Senator MERKLEY's amendment, which would have increased transparency by requiring the Attorney General, in a manner consistent with the protection of national security, to make publicly available Foreign Intelligence Surveillance Court decisions that include a significant construction or interpretation of the law.

Finally, I voted in favor of Senator WYDEN's amendment, which would have required the Director of National Intelligence to submit a report to Congress and the public on the impact of FAA on the privacy of American citizens, while preserving the President's ability to make necessary redactions.

I am disappointed that these amendments, which all call for greater accountability and transparency, were unsuccessful.

In 2008, I largely objected to the FAA because I had serious concerns about granting retroactive immunity to telecommunications companies for actions they may or may not have taken in response to administration requests that may or may not have been legal. Because these immunity provisions are not subject to a sunset, they are not at issue with today's vote.

I ultimately decided to vote in favor of extending FAA for 5 years because, as I noted earlier, major threats still exist. However, I did so reluctantly. We should have considered an FAA extension months ago without the threat of FAA expiration in mere days. Protecting Americans means that we must balance ensuring our national security with preserving our civil liberties, and I will continue to work with my colleagues to ensure that this balance is struck.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1, which the clerk will now report by title.

The assistant bill clerk read as follows:

A bill (H.R. 1) making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

Pending:

Reid amendment No. 3395, in the nature of a substitute.

Coats/Alexander amendment No. 3391 (to amendment No. 3395), in the nature of a substitute.

Cardin/Landrieu amendment No. 3393 (to amendment No. 3395), of a perfecting nature.

Tester amendment No. 3350 (to amendment No. 3395), to provide additional funds for wild land fire management.

Landrieu amendment No. 3415 (to amendment No. 3395), to clarify the provision relating to emergency protective measures.

Coburn amendment No. 3369 (to amendment No. 3395), to reduce the amount that triggers the requirement to notify Congress of the recipients of certain grants and to require publication of the notice.

Coburn/McCain amendment No. 3371 (to amendment No. 3395), to ensure that Federal disaster assistance is available for the most severe disasters.

Coburn amendment No. 3382 (to amendment No. 3395), to require merit-based and competitive awards of disaster recovery contracts.

Coburn amendment No. 3383 (to amendment No. 3395), to strike a provision relating to certain studies of the Corps of Engineers.

Coburn/McCain amendment No. 3368 (to amendment No. 3395), to clarify cost-sharing requirements for certain Corps of Engineers activities.

Division I of Coburn/McCain modified amendment No. 3370 (to amendment No. 3395), to ensure funding for victims of Hurricane Sandy is not spent on tax cheats, deceased individuals, or fisheries outside of the affected area.

Division II of Coburn/McCain modified amendment No. 3370 (to amendment No. 3395), to ensure funding for victims of Hurricane Sandy is not spent on tax cheats, deceased individuals, or fisheries outside of the affected area.

Merkley further modified amendment No. 3367 (to amendment No. 3395), to extend certain supplemental agricultural disaster assistance programs.

Mikulski (for Leahy) amendment No. 3403 (to amendment No. 3395), to provide authority to transfer previously appropriated funds to increase security at U.S. Embassies and other overseas posts.

Mikulski (for Harkin) amendment No. 3426 (to amendment No. 3395), of a perfecting nature.

AMENDMENT NO. 3393

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 3393, offered by the Senator from Maryland, Mr. CARDIN.

The Senator from Maryland.

AMENDMENTS NOS. 3348 AND 3421, AS MODIFIED, EN BLOC

Ms. MIKULSKI. Madam President, it is my understanding that we will be able to adopt a number of amendments by voice vote. In order to do that, I will call up a few more amendments now en bloc before a voice vote on the amendments.

I ask unanimous consent to call up the following amendments en bloc: Grassley No. 3348 and Feinstein No. 3421, as amended.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report the amendments by number.

The assistant bill clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes amendments numbered 3348 and 3421, as modified, en bloc.

Ms. MIKULSKI. Madam President, I ask unanimous consent that the reading be dispensed with.

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

The amendments are as follows:

(Purpose: To shift vehicles used for non-operational purposes by the Department of Justice and Department of Homeland Security in the District of Columbia to replace vehicles of those agencies damaged by Hurricane Sandy)

At the appropriate place, insert the following:

SEC. ___. VEHICLES USE IN THE WAKE OF HURRICANE SANDY.

(a) REPORT.—Not later than 7 days after the date of enactment of this Act, the Department of Justice and Department of Homeland Security shall identify and relocate any vehicles currently based at the Washington, D. C., headquarters of such agencies used for non-operational purposes to replace vehicles of those agencies damaged by Hurricane Sandy. The Department of Justice and Department of Homeland Security shall provide copies of a report summarizing the actions taken to carry out this subsection to the House and Senate Committees on Appropriations and Judiciary.

(b) FUNDING LIMITATION.—No funds provided by this Act shall be used to purchase, repair, or replace any Department of Justice or Department of Homeland security vehicle until after the report required by subsection (a) has been provided to Congress.

AMENDMENT NO. 3421, AS MODIFIED

On Page 16, strike lines 17 through 20, and insert in lieu thereof:

''*Provided further*, That these funds may be used to construct any project that is currently under study by the Corps for reducing flooding and storm damage risks in areas along the Atlantic coast within the North Atlantic or the Gulf Coast within the Mississippi Valley Divisions of the U.S. Army Corps of Engineers that suffered direct surge inundation impacts and significant monetary damages from Hurricanes Isaac or sandy if the study demonstrates that the project will cost-effectively reduce those risks and is environmentally acceptable and technically feasible: *Provided*''.

AMENDMENTS NOS. 3393, 3348, 3421, AS MODIFIED, 3426, 3415, 3403, 3369, AND DIVISION I OF 3370 EN BLOC

Ms. MIKULSKI. Madam President, I ask unanimous consent that we proceed to vote on the following amendments en bloc: Cardin No. 3393; Grassley No. 3348; Feinstein No. 3421, as modified; Harkin No. 3426; Landrieu No. 3415; Leahy No. 3403; Coburn No. 3369; and division I of Coburn No. 3370.

Mr. COCHRAN. Madam President, these amendments have been cleared by the managers on this side. I know of no objections to their adoption.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be considered en bloc.

Mr. GRASSLEY. Madam President, amendment No. 3348 is about smart government. It is about ensuring that taxpayer dollars are spent wisely, while at the same time guaranteeing that Federal law enforcement agencies that face challenges following Hurricane Sandy have the resources they need to get the job done.

Instead of simply providing funding, my amendment requires that within 7 days, the Department of Justice and Department of Homeland Security identify and relocate vehicles based at the Washington, D.C. headquarters of DOJ and DHS that are used for non-operational purposes.

The vehicles identified will then be used to replace those damaged by Hurricane Sandy that are used by the FBI, DEA, ATF, ICE, and Secret Service.

This is a good government amendment and one that actually achieves the goal of replacing operational vehicles used by Federal law enforcement faster than the underlying bill.

If this is an emergency, as we have been told, these agencies can spare some of the hundreds of vehicles they have sitting at their headquarters that they currently have for non-operational purposes.

I urge my colleagues to support my commonsense, good government amendment.

If there is no further debate, the question is on agreeing to the amendments en bloc.

The amendments were agreed to.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, it is my understanding the Senator from