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Senate

The Senate met at 12 noon and was called to order by the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray.

Eternal Lord God, the author and finisher of our faith, You have done great things for us, filling our hearts with gladness. Today, make us aware of Your past providences that we shall have confidence and courage to face tomorrow and all the days and years to come.

Remind our lawmakers that they need not fear the challenges of the future but simply to trust You to order their steps. Direct their desires and talents that their labors will inspire people with faith, hope, love, and perseverance. May they invest their lives in those enduring values that time and circumstances can neither steal nor erode.

We ask this in the Name of Him who promised to supply all our needs. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY, Jr., 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. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 23, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, the Senate will be in a period of morning business until 12:30 today, at which time we will break for the Democratic caucus. As was indicated yesterday, the Republicans are having a retreat at the Library of Congress today. When we come back at 2:15, the Senate will resume consideration of the Indian health bill. There were some amendments offered yesterday, some debated yesterday. We could not arrange a vote yesterday. I do not expect any votes on this bill this afternoon. I have been in close touch with Senator DORGAN. He is trying to work this out so we can complete this legislation quickly. If there are any amendments that Democratic Senators have, I hope they would come and offer them today. That way we can prioritize how we are going to move through this bill.

Mr. President, as I indicated yesterday, we are going to, this evening, start on the FISA legislation to complete that. We are going to finish that legislation this week. That means we are going to have all day tomorrow and all day Friday and, hopefully, not all day Saturday. But we need to finish this legislation. It is critically important. It is not fair to jam the House. Since we have been refused an extension by the Republicans, we need to finish this legislation now, send it to the House, have a conference, and see what we can come back with as quickly as possible.

As I indicated, it is not fair to do as we did last August and send something to the House: Take it or leave it. We are not going to do that. That is why I am not going to wait until next week to go to this legislation. We have to complete it now. There are strong feelings on both sides of this issue. As I have indicated on a number of occasions, I do not support the immunity provisions that are in the Intelligence bill, but it appears that a majority of the Senate does. That being the case, those people who want to amend the Intelligence bill with that information and that legislation we have from the Judiciary Committee will offer that. I hope they will do it as quickly as possible.

There are a number of other issues other than immunity. I have spoken to Senator FEINSTEIN. She says she has something dealing with immunity she wants to offer. She wants to offer something with exclusivity.

There are a number of other things we need to do. As I have indicated, I would hope that if somebody does not like an amendment, they would move to table that amendment and not try to talk it to death because that being the case, we are going to have to let them talk during the evening. We are not going to have a gentlemen's agreement on: OK, so you don't want this to go forward; we are not going to let it go forward. We are going to complete this legislation as quickly as we can.

MEASURE PLACED ON THE CALENDAR—H.R. 4040

Mr. REID. Mr. President, I have a matter at the desk that is due for its second reading, H.R. 4040.

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

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4040) to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

Mr. REID. Mr. President, I object to any further proceedings on this legislation at this time but alert everyone we are going to try to get to this legislation before this work period ends. We do have a few things to do. It seems the best laid plans sometimes have to be delayed because now we have the stimulus package we have to worry about completing. But this is something I want to do. Senator PRYOR and others have worked very hard. So we are going to move forward as quickly as we can.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARDIN).

INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1200, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1200) to amend the Indian Health Care Improvement Act to revise and extend that Act.

Pending:

Bingaman/Thune amendment No. 3894 (to amendment No. 3899), to amend title XVIII of the Social Security Act to provide for a limitation on the charges for contract health services provided to Indians by Medicare providers.

Vitter amendment No. 3896 (to amendment No. 3899), to modify a section relating to limitation on use of funds appropriated to the Service.

Brownback amendment No. 3893 (to amendment No. 3899), to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

Dorgan amendment No. 3899, in the nature of a substitute.

Sanders amendment No. 3900 (to amendment No. 3899), to provide for payments under subsections (a) through (e) of section 2604 of the Low-Income Home Energy Assistance Act of 1981.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 7 minutes.

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

LABELING CLONED FOOD

Ms. MIKULSKI. Mr. President, I know the Indian health bill is very important. Senator DORGAN will be coming to the floor to lead the advocacy of its passage, which I support.

Mr. President, I come to the floor because I want to share some very disturbing news with you and all of my colleagues. Last week, the FDA gave the green light for cloned foods to enter our food supply.

The FDA announced food from cloned animals, or their progeny, is safe for human consumption. Despite pleas from thousands of Americans, and this Senator, to wait until there was more science, the FDA went ahead anyway.

Mr. President, I want to be clear. I am not opposed to cloning that follows strict scientific and ethical protocols. This Senator has always been on the side of science for the advancement of mankind. This Senator has always been on the side of the consumer and the consumers' right to know, right to be heard, and their right to be represented.

So today I come to the floor for a vigorous call to action that my legislation to label cloned food be passed as quickly as possible. This is a consumer alert today and a call for action.

My bill requires the Government to label any food that comes from a cloned animal or its progeny. Mr. President, my bill requires that the FDA and the Department of Agriculture put a label on this cloned food. The FDA handles milk products. We say FDA should work on this issue. The Department of Agriculture regulates meat products. That, too, should be labeled.

My labeling bill would insist that cloned food be labeled at the wholesale level, the retail level, the restaurant level, the school lunch level, and the Meals on Wheels level.

My bill allows the American public to make an informed decision. People have a right to know what they are eating. This is necessary because the FDA and the Department of Agriculture have refused to put a label on cloned food. My legislation allows for consumer choice and also, at the same time, it would allow for monitoring of food as it comes into the food supply for postsurveillance to see if there are any negative consequences.

Americans find cloned food disturbing, and some even repulsive. Close to 80 percent of Americans have said they would not drink cloned milk. There is a ''yuck'' factor to this technology. Right now, under FDA and USDA provisions, there would be no way to tell if food comes from a cloned animal or its progeny. I want the public to be informed, so that is why my labeling bill is for their benefit.

The FDA has been most troubling to me. They made their decision despite two congressional directives—one in the omnibus bill and one in the farm bill. The omnibus bill, which the President signed on December 26, strongly encouraged FDA to hold off on a cloning decision before additional studies were done. On December 14, the Senate overwhelmingly passed the farm bill that would require the National Academy to peer-review FDA's decision.

Now, this was limited to 1 year. So I wasn't talking about a 20-year longitudinal study. I do want more science.

Second, I am concerned if we discover a problem with cloned food after it is in our food supply, and it is not labeled, we will not have any way of monitoring this. It is labeling that allows us to monitor.

The FDA has been very weak in postmarketing surveillance of drugs. Why would they be stronger on cloned food? Who will worry about the ethics? And where is the urgency? We are not facing a global shortage of beef and a global shortage of milk.

I know FDA's decision on the risk assessment is over 900 pages long. Mr. President, I have been skeptical of long reports. I have found that the longer the report, usually the more shallow the information.

My concerns are grave. I am for more science, and I have asked for it responsibly through the legislative process. I am going to continue to advocate for more studies on this issue. In the meantime, I want to protect the consumer and also allow scientists to monitor this new technology.

If America doesn't keep track of this from the beginning with labeling, our entire food supply could be contaminated. I am not opposed to cloning. I

am on the side of science, but let's label and monitor it.

The National Academy of Sciences suggested that we monitor this new technology because it is very new. They urged the Federal Government to use diligent postmarket surveillance mechanisms. That requires labeling.

Mr. President, last week, the EU decided that cloned foods were safe, but they also put up a big yellow flashing light. They referred it to their science and ethics and new technologies committee. They said there is no ethical justification to use cloned food. The EU called for more scientific study on cloned food, and they also said it should be labeled.

Denmark and Norway have already banned cloned food from their food supply. I am worried that they will start banning our exports if they are not labeled. My State depends on the export of food, whether it is seafood, chicken, or other products. We want to be able to export our food.

Mr. President, we are going down a track that I want to be sure is not irrevocable or irretrievable. The way to ensure safety in our food supply and consumer choice and the ability for science to continue is monitoring and labeling.

I stand here on behalf of the consumer to say, please, let's pass this labeling bill. It is needed, it is responsible, and it will be effective. I think it will save us a lot of ''yuck'' in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

U.S.S. ''PUEBLO''—40TH ANNIVERSARY

Mr. ALLARD. Mr. President, I rise now, 40 years since the North Korean government unlawfully captured the lightly armed U.S.S. *Pueblo* while it was on a routine surveillance mission in international waters. The U.S.S *Pueblo* was the first ship of the U.S. Navy to be hijacked on the high seas by a foreign military force in more than 150 years, and is currently the only commissioned U.S. naval vessel that is in the possession of a foreign nation. Forty years ago today, 83 crew members were kidnapped and 1 sailor was killed in the assault. Following the capture, our men were held in deplorable, inhumane conditions for more than 11 months before being released. While we were grateful to see the return of our brave sailors, 40 years later we are still waiting for the return of the U.S.S. *Pueblo*.

The U.S.S. *Pueblo* remains a commissioned naval ship and property of the U.S. Navy. Currently, the North Korean government flaunts the Pueblo as a war trophy and a tourist attraction in Pyongyang, North Korea's capital. We must not continue to remain silent about North Korea's continued violation of international law by possessing our ship, the U.S. Navy's ship. Each day tourists visit and tour the U.S.S. *Pueblo*, similar to the way visitors see retired naval ships in New York and San Diego. Americans in particular are encouraged to be photographed by the U.S.S. *Pueblo*. As recently as April 2007, it was reported that President Kim Jong Il stated that the *Pueblo* should be used for ''anti-American education.'' North Korea's capture of the U.S.S. *Pueblo* is in blatant violation of international law and the further exploitation of the *Pueblo* is tasteless and disingenuous. I believe 40 years of relative silence on this issue is far too long, and it is important that the Senate take action and denounce the current situation.

The U.S.S. *Pueblo* bears the name of the town of Pueblo, CO, a city with a proud military tradition and is the only city to be home of four living Medal of Honor recipients simultaneously. In fact, in 1993 Congress deemed Pueblo the ''Home of Heroes'' for this unique distinction. Many in our State and all over the country want to see the vessel returned to its proper home. To this end, I am reintroducing a resolution seeking the return of the U.S.S. *Pueblo* to the U.S. Navy. This bill is cosponsored by my good friend and proud veteran, Senator DANIEL INOUYE, and I encourage all of our colleagues on both sides of the aisle to support this legislation and see to it that the U.S.S. *Pueblo* is returned to the U.S. Navy.

Mr. President I ask unanimous consent to have printed in the RECORD an editorial that appeared in the Pueblo Chieftain today regarding the anniversary.

As that editorial says, ''Mr. President, bring back the U.S.S. *Pueblo*.''

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

[From the Pueblo Chieftain, Jan. 23, 2008]

INFAMY

Today marks the 40th anniversary of what for Puebloans is a day that shall live in infamy. On Jan. 23, 1968, naval and air forces of North Korea attacked and took hostage the USS Pueblo and its crew.

The Pueblo was a Navy intelligence ship operating in international waters. Despite that, the Stalinist regime in Pyongyang decided on a bold course of action and sent patrol boats and MiG fighters to harass the lightly armed U.S. vessel.

This was during the height of the Vietnam War, and the North Koreans correctly figured that American military brass weren't focused on the American spy ship's mission. They were right.

Armed only with one .50-caliber machine gun, the Pueblo crew tried to fend off the advancing Communist forces, to no avail. One crewman was killed while comrades tried to destroy as much equipment and paperwork as possible.

But the die was cast. The North Koreans boarded the Pueblo and took the rest of the crew hostage.

For the next 11 months, the crew was subjected to cruel and inhumane treatment at the hands of their captors. But the American spirit was not to be tamed.

During propaganda photo sessions, the Yanks dutifully smiled for the Koreans' cameras—and flashed ''the bird,'' that one-finger salute that Americans know too well but was above the heads of the Communists.

But that did not last. When the Reds figured out what that sign of defiance meant, the men of the Pueblo were subjected to more severe beatings.

The man who took the worst of the pummeling was Cmdr. Lloyd Bucher, the Pueblo's skipper. After each torture session, he'd crawl back to his cell—and surreptitiously give his comrades the high sign.

He, and his men, were not to be beaten.

It was exactly 11 months after the seizure when the North Koreans freed their American captives. They were allowed to walk one by one across the Demilitarized Zone separating North and South Korea.

While the Pueblo crew was free, their ship was and still is not. It is being held as a trophy of war in a river near Pyongyang—a tourist attraction and propaganda piece for the regime.

North Koreans have been forced at times to eat grass, so poorly is their economy run by central planners. But they have ''bread and circuses'' in the form of the American intelligence ship which bears this city's name.

Many attempts have been made to persuade the North Koreans to give the ship back to its rightful owners. When he was governor of California, Ronald Reagan urged Washington to bomb North Korea in order to force the ship's release.

Over the years since, numerous diplomatic moves have been tried. Recently, at the behest of Colorado's U.S. Sen. Wayne Allard, a Korean battle flag on display at the U.S. Naval Academy was returned to the Hermit Kingdom as a sign of this nation's goodwill.

That and all other overtures have thus far been fruitless. But this incident of four decades ago remains an ugly scar on the history of this nation, one which cannot be allowed to continue to fester.

We realize that with the War on Terrorism in Iraq, Afghanistan and elsewhere across the globe, there are other pressing international security issues. But if this nation were to show the world its resolve by getting the USS Pueblo back, by whatever means, we would show those who think they can bring us to our knees that we are not to be cowed.

Mr. President, bring back the USS Pueblo.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

THE ECONOMY

Mr. DORGAN. Mr. President, when I am completed talking about the economy, we will return to the Indian affairs business and debate the bill on the floor. If there are those who wish to offer amendments, I certainly hope we can bring them to the floor and debate them and vote on them.

As I mentioned, I would like to talk for a moment about the economy. There is the 24/7 news hour all across this country talking about what is happening: What on Earth is going on in this country's economy? What is happening in the stock market, which is moving up and down like a yo-yo—not so much up anymore but down substantially in recent weeks and months.

So what is happening? There are many pieces of evidence to suggest this economy is in very big trouble, including a substantial reduction in the stock market, an increase in unemployment, and a dramatic drop in housing starts. As a result of all of that,

there has been frenzied activity, both at the White House and in the Congress, to talk about something called a stimulus package. We need to do a fiscal stimulus package.

In fact, the President announced a stimulus package of $145 billion to $150 billion. That is a stimulus package of about 1 percent of our gross domestic product in this country.

Yesterday, the Federal Reserve Board took action in monetary policy to cut a key interest rate by 75 basis points. That was a significant and aggressive move by the Federal Reserve Board. This Congress and this President will want to make some aggressive moves with a stimulus package that are complementary to what has been done in monetary policy.

I make this point that is very important: If that is what we do, and all that we do, we fundamentally misunderstand what is wrong. I think most of the American people understand what is wrong. Certainly, most of the people around the world who look at this country understand we have gone off the track. If we don't fix our trade policy and fiscal policy, and if we don't fix things that need regulating that have largely been outside of the view of regulators, we are going to continue to be in very big trouble. Let me go through just a couple of these items.

We have the largest trade deficit in human history. Every single day, 7 days a week, we import $2 billion more than we export. That means every single day we add another $2 billion to the indebtedness of this country. That is over $700 billion a year. We are hemorrhaging in red ink. We have to fix it. Warren Buffett, a remarkably successful investor in this country, said it quite clearly: This is unsustainable, this cannot continue.

The fact is, the President and the Congress act as if nothing is wrong. We have the most unbelievably inept trade policy in the history of humankind—$2 billion a day we import more than we export. That means we are putting dollars that we pay for those goods in the hands of foreigners, and they are coming back to buy part of America. We are literally selling part of this country. But the fact is, you cannot hemorrhage in red ink like that for any great length of time without having significant consequences. It is what undermines your currency. It undermines confidence in your economy.

You add to that $700 billion-plus a year trade deficit a fiscal policy that is reckless and ill-considered. It is as if we think people cannot see. It is like a drunk who thinks they are invisible. The fact is, we have an unbelievable fiscal policy deficit. They say: Well, it is $200 billion, $300 billion. Nonsense. Take a look at what we have to borrow for fiscal policy every year. The reason they show the lower deficit is because they are misusing the Social Security revenues. Take a look at the real deficit. It is likely to be over half a trillion dollars this year. You add that to the trade deficit and then ask yourself, if you were looking from the outside into this country, do you think this is off track, the fundamentals are out of line? Do you think they have to be fixed? The answer is yes. We have very serious abiding problems. You add to that an unbelievably inept fiscal policy hemorrhaging in red ink and is way off track.

By the way, it is not just the normal budgetary Presidential requests and congressional actions on spending and taxing. The President, in the last year, sent to the Congress, in addition to outside-the-budget system, he said: I want you to appropriate money for me, $196 billion—that, by the way, is $16 billion a month, $4 billion a week—and I don't want any of it paid for; I want it added to the debt because I want it for Iraq, Afghanistan, and other activities with respect to the war. That takes us to over two-thirds of a trillion dollars this President has asked for, none of it paid for. We will send our soldiers to war, but we will not do anything that requires any effort on our part to begin to pay for it. We will send soldiers to war and say: Come back and you pay for it later.

In addition to a fiscal policy that just does not work, we are now engaged in a war in which we borrow the money. Even as we borrow the money for the war, we have a President who says: I want more permanent tax cuts, mostly for the wealthy. It is not a secret. Everyone sees what is going on—everyone, apparently, except those in the White House and those in the Congress.

We have to fix the fundamentals, and if we do not, there isn't any amount of fiscal policy stimulus or any amount of activity by the Federal Reserve Board that is going to set this straight. It just is not.

You add to that inept trade policy and the hemorrhaging of red ink on fiscal policy that is reckless and out of control these issues: regulators who really do not care. They come to the body of regulatory responsibility bragging that they don't like government. What happens? We have what is called a subprime lending crisis. What does that mean? What it means is no one was watching and no one cared very much, and what we had was an orgy of greed with respect to an industry that is essential to this country—that is, providing loans so people can buy homes.

We had a bunch of highfliers decide: What we really want to do is to sell you a loan, and we want to put you in a new home. To do that, we will give you rates that you will not even believe. We will give you a home loan at a 2-percent interest rate—2 percent. We will quote the payment. That looks good, a 2-percent interest rate. What they don't tell you is the interest rate is going to reset in 3 years, it is going to reset way up, and then you will not be able to make the payments, or they do not tell you there also is an escrow you have to pay every month on top of that.

Here is what was going on. This was an advertisement on television:

> Do you have bad credit? Do you have trouble getting a loan? You've been missing payments on your home loan? Filed for bankruptcy? Doesn't matter. Come to us. We've got financing available for you.

We have all heard these ads and probably scratched our heads and wondered: How on Earth can this happen? The fact is, it can.

I will give an example. The biggest mortgage lender is Countrywide, which now is being purchased by Bank of America, apparently. The CEO of Countrywide, Mr. Mozilo, made off now with hundreds of millions of dollars. They had brokers cold-calling people saying: We want to put you in a subprime loan. Then they sold these subprime loans. They packaged these subprime loans with other good loans. They were enticing people into these loans at teaser interest rates that were going to reset in ways people could not afford to pay. Then they decided, just as in the old days when the discussion was about meat-packing plants and they put sausage and sawdust together—when you make sausage, you need a filler. So they put sawdust in sausage. These companies that were hawking these loans decided to put good loans with bad loans, subprime with other loans, and then mix them all up like a big-old sausage, and they would slice them up, securitize them, and sell them.

Who wanted to buy them? The rating agencies were sitting there dead from the neck up: This looks OK. We don't understand it, but it looks good to us. Hedge funds were saying: I like these new pieces of financial sausage because they are sliced up in a way that has a big yield. Why a big yield? Because they had prepayment penalties for the loans, loans that would reset to much higher interest rates that people couldn't make. This new piece of financial sausage shows a very high yield. So the hedge funds, liking high yields and liking big money, are buying all these securitized loans, and then all of a sudden, it goes belly up. And we wonder why. It is because people were advertising on television: You have bad credit? Have you filed for bankruptcy? Come to us; we want to give you a loan. Then they package this up in an irresponsible way.

One might ask the question: How could that all have happened? Weren't there some regulators around? No, no. The regulators were first ignoring them and then actually giving them a boost. Alan Greenspan now stands around scratching his head thinking: What on Earth happened? It happened on your watch, my friend. The Federal Reserve Board did nothing. In fact, part of this housing bubble that occurred was part of the air that comes from these unbelievable subprime loans that boosted that bubble. Again, Warren Buffett said: Every bubble will burst. And this one did. It shouldn't

have surprised us. But regulators sat by and said: That doesn't matter.

Did anybody care about those brokers placing a $1 million jumbo subprime loan, making a $30,000 commission on that loan? Did anybody say: Wait a second, what you are doing is misleading the folks who are going to borrow the money; you can't do that. Did anybody say to the rating agencies: You can't be rating as top-grade securities this sausage with sawdust, these financial instruments that have stuck together bad loans with good loans; you can't do that. Did anybody say to the hedge funds: You are buying a pig in a poke here; you are buying something you think is high yield, but you know better than that. What happened was all of this went out over the transom, and nobody even knows where it is or how much it is. Now they can't untangle it to find out where all these subprime loans exist. Nobody knows.

The next time somebody talks about regulation, understand, sometimes regulation is very important. The danger to this economy, as a result of the subprime scandal, is very significant. It is having consequences all across this country. You add this subprime scandal and its consequences to a fiscal policy that is reckless, to a trade policy that is inept, and then add this final factor: We have a circumstance where a gambler goes into a casino in Las Vegas and, in most cases, the sum total of what they will lose is the money they have carried into the casino—that is the risk of loss.

Here is the other fact about what is happening in our economy that nobody wants to talk about. We have hedge funds—yes, they are called hedge funds, mostly unregulated—to the tune of about $1.2 trillion. Some would say that is not so much, $1.2 trillion. There is $9 trillion of mutual funds. There is something like $40 trillion of the total aggregate value of stocks and bonds. So $1.2 trillion in hedge funds, that is not so much, except one-half of all the trading on the New York Stock Exchange is done by those hedge funds. And those hedge funds have created, among other things, derivatives. There was something like a notional value of $26 trillion in credit default swaps at the end of 2006.

It sounds very much like a foreign language when I say it, but the product everyone is worried about at the moment is something called credit default swaps, trillions of dollars of credit default derivatives—fancy financial instruments, much fancier than sausage with sawdust but in many ways the same thing. The interesting thing about these hedge funds is the dramatic amounts of borrowing, so they are not going to lose just what they go into the casino with in their pocket money. They are so heavily leveraged and so deep in credit default swaps that this could have significant consequences for our economy.

I and others have spoken on this floor for several years about the need for regulation of hedge funds. I have spoken on this floor many times about the issue of derivatives and the total aggregate notional value of derivatives and its potential consequence to the economy in a downturn.

A friend told me there is a saying on Wall Street that you will never know who is swimming naked until the tide goes out, and then it might not be very attractive. When the tide goes out with respect to this economy's difficulties and we evaluate who in the hedge funds, in the investment banks, who in all of these enterprises is left who cannot pay the bills because they were so unbelievably leveraged in financial interests most Americans have never heard of, credit default swaps, what are the consequences to our country's economy?

If this does not sober up our Government on trade policy and fiscal policy and regulatory requirements with respect to hedge funds and derivatives, then nothing will. If this does not alert all of us that we are no longer operating behind a screen somehow—the world sees what is happening when there is a subprime loan scandal, the world understands it, and its consequences are felt all across this country and all across the globe.

I understand we are going to do something called a stimulus package. We have a roughly $13 trillion-plus economy. We are going to do a stimulus package probably of $140 billion, $150 billion—1 percent of our economy. I understand the Federal Reserve has taken substantial action, 75 basis points yesterday. That is a big deal for the Fed, and I understand why. It is to try to calm the nerves and say this country stands behind its economy, and we should. I believe in this country's economy. This engine of opportunity and engine of growth is unusual in the world. On this planet, we circle the Sun, and there are about 6.4 billion neighbors, half who live on less than $2 a day and half who have never made a telephone call, and we have the opportunity to live in this country. This is a wonderful place. We have built something unusual on this planet, but we have run into difficulty. No one seems to want to admit it, and we have to fix the fundamentals. Yes, we can do stimulative packages, but if we don't fix the fundamentals, we will not solve the problems for the future, we will not expand opportunity for the future.

There is so much to say and so much to be concerned about, but there is so much hope for the future if—if—we understand that a stimulus package is not our only responsibility. We have to fix trade and fiscal policy, and regulatory responsibility. We need to begin regulating hedge funds and be concerned about the notional value of derivatives. If we do not start doing that, we are not going to fix this issue, and we are not going to have a better future.

I feel very strongly, if we do what is right, that we can provide substantial opportunity for this country, but the right things will include much more than a stimulus package.

Mr. President, I would like, in concluding my portion of morning business, I would like to talk about the underlying bill on the floor of the Senate, that is the Indian Health Care Improvement Act.

I spoke yesterday at some length, but I wish to again talk a little bit about why we are here and what all this means because I think it is so important. Some might say: Well, why is there an Indian Health Care Improvement Act? Why not a Norwegian or a Lutheran Health Care Improvement Act?

The Indian Health Care Improvement Act is designed that way, with that name, for a very specific reason. This country, for a long period of time, told American Indians: Look, we are going to take your land, we are going to force you to a reservation someplace, and we will write a treaty for you. Our treaty is going to tell you we are going to take care of your health care. We are going to meet our obligation. We have a trust responsibility for you.

So we will take your land, we will move you off to reservations, but, trust us, we are going to provide for your health care because that is our trust responsibility. Chief Joseph from the Nez Perce Tribe said:

> Good words do not last unless they amount to something. Words do not pay for dead people. Good words cannot give me back my children. Good words will not give my people good health and stop them from dying.

He was concerned long ago about the inability of this country to keep its word on these trust responsibilities. We are here today because, finally, back in the early 1970s, President Nixon, President Ford, and every President succeeding them understood we have a trust responsibility for Indian health care. That is a fact.

In 1970, President Nixon noted we had 30 licensed Native American physicians in all our country. Thirty. And we created back then a self-determination policy. In 1976, President Ford signed into law the Indian Health Care Improvement Act. That is what we discuss today on the floor of the Senate.

I spoke yesterday, and I wish to again briefly about the challenge. I have held a lot of listening sessions on Indian reservations, and, frankly, the challenges we face are daunting.

Indian reservations see unbelievable health challenges. On a good many reservations, you will find one-half of the adult population who are suffering from diabetes. On the northern Great Plains, the rate of death from suicide among teenagers on Indian reservations is not double or triple, not 5 times the national average, but 10 times the national average of teen suicide.

I have held hearings about that. I have sat down with Indian teenagers on an Indian reservation, no other adults present, to say: What is going on in

your lives? What is happening? What is causing those clusters of suicides? There are so many problems of diabetes and suicide and so many other issues on reservations, dealing with health care. Part of it is because this system is so dramatically underfunded.

I wish to mention Ardel Hale Baker. Ardel Hale Baker is a woman on an Indian reservation who allowed me to use her photograph. Ardel Hale Baker was having a heart attack, diagnosed as a heart attack at a clinic. She didn't want them to call an ambulance. The nearest hospital was an hour and a half, hour and three-quarters away. She was lucky she got to the clinic when it was opened because the clinic, I believe, is open from 9 o'clock until 5 o'clock or 4 o'clock, with an hour closed for lunch hour. It is not open on weekends, but that is the health care on that reservation.

But she went there when the clinic was open. She was diagnosed as having a heart attack. She did not want them to call an ambulance because she knew that if the ambulance was not paid for by the Indian Health Service, she did not have any money and it would ruin her credit, because they would come after her.

So they said: No matter what you want, you are getting an ambulance. They put her in an ambulance, drove her about an hour and three-quarters to the nearest hospital. As they unloaded this woman from the ambulance gurney to a hospital gurney to pull her into the emergency room, they discovered a piece of paper attached to her thigh with a piece of tape.

I want to show you the paper that was attached to the thigh of Ardel Hale Baker as she was being wheeled into a hospital with a diagnosis of a heart attack. This is from the U.S. Department of Health and Human Services. It is a letter attached to this woman's leg with masking tape. It says on the letter that: You should understand that you have received outpatient medical services from your doctor at so and so. And this letter is to inform you that your priority one care cannot be paid for at this time, due to funding issues.

What they were saying is, as they wheeled this Indian woman into the emergency room, they were saying to the hospital: Understand this. That whatever care you give her is not going to be paid for, because we are out of contract health care funds.

On that reservation, everyone knows the refrain: Do not get sick after June because they are out of contract health care funds. What does this do? Well, if they treat this woman, then they have a bill that they go after this woman on. She does not have the ability to pay it. So it ruins her credit rating quickly, just like that. I cannot tell you the number of adults I have run into on these reservations who have had their credit ratings ruined because contract health care would not pay for health care.

They did not have the money. They were treated anyway, but then it ruined their credit rating. This is an example of what is happening over and over. It is happening today, on Wednesday.

Yesterday, I spoke about a beautiful young woman named Ta'shon Rain Littlelight. I was on the Crow Reservation in Montana. And Ta'shon Rain Littlelight's grandmother stood up at a meeting on health care. And this little 5-year-old girl, with the bright eyes and the beautiful traditional dress, loved to dance at age 5. And she apparently was a good dancer.

Ta'shon Rain Littlelight is dead. She lived the last 3 months of her life in unmedicated pain. This little girl was taken again and again and again and again to the Indian health clinic. And she was treated for depression. Depression.

At one of the visits, her grandparents said: Well, she has a bulbous condition on her toes and her fingers which suggests maybe she is not getting oxygen or something else is wrong, can you check? Treated her for depression.

One day she was airlifted to Billings, MT, to the hospital. In arriving at the hospital in Billings, MT, she was very quickly then airlifted to the Children's Hospital in Denver, CO, and diagnosed with terminal cancer.

Now Ta'shon Rain Littlelight was a 5-year-old child. She would not have known the challenges of this issue of Indian health care. When diagnosed with a terminal illness, she told her mother what she wanted to do was to go see Cinderella's castle. And the Make-A-Wish Foundation folks made that happen.

A few weeks later, she was in Orlando, FL. The night before she was to see Cinderella's castle, in the hotel room, in her mother's arms, she died.

And Ta'shon Rain Littlelight told her mother that night before she died: Mommy, I will try to get better. Mommy, I am sorry I am sick.

This little girl lived in unmedicated pain with an undiagnosed illness for many months. Would that have happened in our families? Would it?

A woman goes to a doctor on an Indian reservation, with so much pain in her leg because her knee is bone-on-bone, unbelievable pain. And she is told: Wrap it in cabbage leaves for 4 days and it will be fine.

The doctor who subsequently treated her off the reservation said it was unbelievable. This is the woman who had a knee condition with such unbelievable pain that any of us or our families would immediately have wanted to have a new knee, a replacement. But she was told to wrap it in cabbage leaves for 4 days and it will be okay.

Now, if I sound angry about what is going on, I am. Because this country has a responsibility to do better. We have a responsibility for health care for two special groups of people. One, Federal prisoners whom we send, incarcerated, to Federal prisons because they have committed crimes. When they are in a Federal prison, it is our responsibility for their health care, and we provide it.

We also have a responsibility because we promised and made a solemn trust oath to provide health care for American Indians. We even signed that into treaty after treaty. Now, all these years later, I find we are spending twice as much per person to provide health care for incarcerated Federal prisoners as we are to provide health care for American Indians.

That is why Ta'shon Rain Littlelight loses her life or at least does not have the kind of care and diagnosis we would expect for ourselves or our families or other Americans. That is why we have to fix it.

So having said all that I—I am sorry to go through it again—but I feel so strongly that this Congress has to take responsibility. Having said all that, there is much we can do. We have put together a piece of legislation that is 10 years too late. Ten years this Congress has delayed in reauthorizing this bill.

Finally, we are on the floor of the Senate to reauthorize this bill. This legislation is not perfect. It is a step forward, a step in the right direction. One of my colleagues will come and say: I demand reform. Well, he cannot demand it more than I demand it. But if you cannot get the first step done, how are you going to talk about reform 10 years after this should have been done?

I am looking for amendments that can be brought to the floor that can strengthen this. I am for those amendments. As soon as this passes, our committee is going to immediately begin a much broader reform of Indian health care.

But first and foremost, we have to move forward. We expand cancer diagnosis and treatments, we expand the opportunities for dialysis, we expand the opportunity for diabetes programs, we expand the opportunities to recruit doctors and nurses on Indian reservations. We do a lot of things in this bill that advance the interests of Indian health care.

It is not all I would like to do, but it is a significant step forward, that will improve the lives of people who today are not getting what was expected and what was promised by this country. This country has a responsibility to meet this, and I am determined, somehow, someway, we are going to meet it.

It appears, toward the end of this afternoon, the majority leader has indicated we have to go to the Foreign Intelligence Surveillance Act, because we have a February 1 deadline on that. We likely will not get this bill done by the end of this afternoon. We will then turn to FISA and work on FISA, I believe, perhaps today, tomorrow, perhaps Friday and Saturday, according to the majority leader.

But when the Foreign Intelligence Surveillance Act is completed, the majority leader told our caucus a bit ago, then we will pull this back on the floor and finish this piece of legislation.

So I ask my colleagues to come to the floor with amendments. Let us debate amendments, talk through amendments, improve this bill, if we can. But most importantly, let us get to the end, get it passed and have a conference with the House and, finally, after 10 long years, send this to the President for signature.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, we are attempting, with the two cloakrooms, to notify offices of Senators that we would like very much to find a way to get a list of the amendments that are intended to be offered.

So if there are Senators who have amendments to this bill they intend to offer, we hope they would notify their cloakrooms so we can put a list together. We would like to make some progress. I do know the Republicans have an issues conference this afternoon, or perhaps all day. But I know they are now at an issues conference, I believe at a location on Capitol Hill. So I expect this bill will be carried over.

But if we can have some amendments offered this afternoon, still we can debate these amendments, I would like to ask Senate offices if they have amendments, notify the cloakrooms so we can put them on a list and have some notion of what we need to do in order to get this bill completed.

My understanding is the Senator from Vermont wishes to speak in morning business.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to continue for what will be a relatively short while as in morning business.

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

FOREIGN INTELLIGENCE SURVEILLANCE

Mr. LEAHY. Mr. President, the Senator from North Dakota is absolutely right. Having managed a number of bills, I know that sometimes it is hard to get people with amendments to come forth. I hope they do. Once this bill is finished, we will go to the Foreign Intelligence Surveillance Act or, as we know it here, FISA. It is intended to protect both our national security and also the privacy and civil liberties of all Americans. We are considering amendments to that important act that will provide new flexibility to our intelligence community. We all support surveillance authority. With terrorists plotting against us and talking about it, we want to be able to use all the various electronic and other means to find out what they are saying. Unlike some in the administration who say we are dealing with an antiquated law, we have updated this act many times, probably 30 or more times since its historic passage after intelligence abuses of earlier decades.

I came here 34 years ago. I well remember that this Nation was still reeling from the excesses of the COINTELPRO when people were being spied on by their Government simply because they disagreed with what the Government was doing; in this case, the war in Vietnam. We enacted FISA so we could do the legitimate thing of actually spying on people who wanted to do harm to the United States at the time of the Cold War, when we had adversaries all over the world. We also wanted to make sure that Americans who were minding their own business, not doing anything illegal, wouldn't be spied upon.

We rushed the so-called Protect America Act through the Senate just before the August recess and with it were a number of excesses. They came about because the administration broke agreements it had reached with congressional leaders. The bill was hurriedly passed under intense partisan pressure from the administration. In fact, the pressure was so strong, they made it very clear why they were willing to break agreements with those Republicans and Democrats who had been working together to try to craft a bill that would protect America's interests but also protect the privacy of individual Americans.

So we passed a bill that provides sweeping new powers to the Government to engage in surveillance, without a warrant, of international calls to and from the United States involving Americans, and it provided no meaningful protection for the privacy and civil liberties of the Americans who were on those calls. It could be an American calling a member of their family studying overseas. It could be a business person who, as they travel around to various companies they represent, ends up having their telephone calls intercepted.

But before that flawed bill passed—the one that came about because of the broken agreements by the administration—Senator ROCKEFELLER and I and several others in the House and Senate worked hard, in good faith with the administration, to craft legislation that solved an identified problem but, as I said, protected America's privacy and liberties.

Just before the August recess the administration decided instead to ram through its version of the Protect America Act with excessive grants of Government authority and without any accountability or checks and balances. They did this after 6 years of breaking the law through secret warrantless wiretapping programs. It was one of the most egregious things I have seen in my 34 years in the Senate. First they violate the law, and then instead of being held accountable, they ram through a law designed to allow them to continue those actions. Some of us saw it for what it was and voted against it. Both Senators from Vermont voted against it. We are from a State that borders a foreign country. We are concerned about our security, but we are also concerned about our liberties and our privacy.

We did manage to include 6-month sunset in the Protect America Act so we would have a chance to revisit this matter and do it right. The Senate Judiciary Committee and the Intelligence Committee, as well as our House counterparts, have spent the past month considering changes. In the Senate Judiciary Committee we held open hearings. We had more briefings than I can even count and meetings with the administration, with people in the intelligence service, with people at the CIA, NSA, and others. We considered legislative language in a number of open business meetings where Senators from across the political spectrum could be heard. Then we reported a good bill to the Senate before Thanksgiving.

The bill we are now considering will permit the Government, while targeting overseas, to review more Americans' communications with less court supervision than ever before. I support surveillance of those who might do us harm, but we also have to protect Americans' liberties. Attorney General Mukasey said at his nomination hearing that ''protecting civil liberties, and people's confidence that those liberties are protected, is a part of protecting national security.'' Let me repeat what the new Attorney General said:

> Protecting civil liberties, and people's confidence that those liberties are protected, is a part of protecting national security.

I agree with him. That is what the Judiciary Committee bill does. I commend the House of Representatives for passing a bill, the RESTORE Act, that takes a balanced approach to these issues and allows the intelligence community great flexibility to conduct surveillance of overseas targets but also provides oversight and protection for Americans' civil liberties. The Senate Select Committee on Intelligence has also worked hard. I know Chairman ROCKEFELLER was as disappointed as I at the administration's partisan maneuvering just before the August recess. After being here through six administrations, it has always been my experience, with Republican or Democratic administrations at certain points, when you are negotiating a key piece of legislation with the administration, you have to rely on them to keep their word and be honest with you, as they have to rely on you to keep your word and be honest with them. Through six administrations, 34 years, I can never remember a time where an administration was less truthful or flatly broke their word in the way this one did.

I commended the efforts of Senator ROCKEFELLER and those working with him. I do so again now. I believe both he and I want surveillance but we want

surveillance with oversight and accountability within the law. I also want to praise our joint members. In the Judiciary Committee we have, by practice, a certain number of members who serve on both Judiciary and Intelligence for obvious reasons. The ranking member of Judiciary and I, of course, have access to a great deal of intelligence whenever we have requested it, but that is on an ongoing basis.

Senators FEINSTEIN, FEINGOLD, and WHITEHOUSE contributed so much to the work of the Judiciary Committee. They worked with me to author many of the additional protections we adopted and reported. They had worked on the bill in the Intelligence Committee and then worked with us. These Senators and others on the Judiciary Committee worked hard to craft amendments that will preserve the basic structure and authority proposed in the bill reported by the Select Committee on Intelligence, but then they added those crucial protections for Americans, the part the Judiciary Committee, because of our oversight of courts, worries about.

I believe we need to do more than the bill initially reported by the Senate Select Committee on Intelligence does to protect the rights of Americans. I know the chairman of that committee joins with me to support many of the Judiciary Committee's improvements.

Let me cite briefly what they are. The Judiciary bill, for example, makes clear that the Government cannot claim authority to operate outside the law outside of FISA—by alluding to other legislative measures never intended to provide that authority.

I will give you an example of what happened. The House and the Senate passed an authorization for the use of military force. We did this right after September 11. It was authorization to go in and capture Osama bin Laden—the man who engineered 9/11, is still loose, and taunts us periodically. But what happened? The administration was so hellbent on getting into Iraq that when they had Osama bin Laden cornered, they withdrew their forces and let him get away so they could invade Iraq—a country that had absolutely nothing to do with 9/11. Now they say that authorization allowed them to wiretap Americans without a warrant. I have heard some strange, convoluted, cockamamie arguments before in my life. This one takes the cake.

I introduced a resolution on this in the last Congress when we first heard this canard. We authorized going after Osama bin Laden, but the Senate did not authorize—explicitly or implicitly—the warrantless wiretapping of Americans. By their logic, they could also say we authorized the warrantless search of the distinguished Presiding Officer's home or my home. This body did no such thing, but the administration still is clinging to their phony legal argument.

The Judiciary bill would prevent that dangerous contention with strong language that reaffirms that the Foreign Intelligence Surveillance Act is the exclusive means for conducting electronic surveillance for foreign intelligence purposes.

The Judiciary Committee's amendment would also provide a more meaningful role for the FISA court to oversee this new surveillance authority. The FISA court is a critical independent check on Government excess in the sensitive area of electronic surveillance. The administration claims that of course the Foreign Intelligence Surveillance court can look at what they are doing, they just don't want the court to be able to do anything about it. No. The Judiciary Committee says the court should be able to look at what they are doing and should be able to stop them if they are breaking the law. In this Nation we fought a revolution over 200 years ago to have that right.

With the authority of a majority of the Judiciary Committee members, I am going to offer a revised version of the Committee's amendment that makes some changes to address technical issues and also to address some of the claims the administration has made about our substitute.

For example, in response to concerns raised by the administration in its Statement of Administration Policy, we have revised the exclusivity provision to ensure that we are not overextending the scope of FISA. We have also revised the provision concerning stay of decisions of the FISA Court pending appeal, the provision clarifying that the bill does not permit bulk collection of communications into or out of the United States, and a few other provisions.

I believe these revisions make the Judiciary Committee's product even stronger, and I urge my colleagues to support it.

Now, in the bill we have a title I, a title II. Title II in the Intelligence bill talks about retroactive immunity. We do not address that in the Judiciary Committee's bill, but I do strongly oppose the bill reported by the Senate Select Committee on Intelligence in that area. Their bill would grant blanket retroactive immunity to telecommunications carriers for their warrantless surveillance activities from 2001 through earlier this year. This surveillance was contrary to FISA and violated the privacy rights of Americans.

The administration violated FISA for more than 5 years. They got caught. If they had not gotten caught, they probably would still be doing it. But when the public found out about the President's illegal surveillance of Americans, the administration and the telephone companies were sued by citizens who believe their privacy and their rights were violated.

Now the administration is trying to get this Congress to terminate those lawsuits. It is not that they are worried about the telephone companies. They are not as concerned about the telephone companies as they are about insulating themselves from accountability.

This is an administration that does not want us to ask them anything, and they do not want to tell us anything. Interesting policy. If you do ask them, they are not going to tell you. If they do tell you, it appears oftentimes they do not tell you the truth.

Now, the rule of law is fundamental to our system. It has helped us maintain the greatest democracy we have ever seen in our lifetimes. But in conducting warrantless surveillance, the administration showed flagrant disrespect for the rule of law. It is like the King of France, who once said: ''L'Etat, c'est moi.'' ''The state is me.'' They are saying: What we want to do is what we will do. And if we want to do it, the law is irrelevant.

I cannot accept that.

The administration relied on legal opinions that were prepared in secret and shown only to a tiny group of like-minded officials who made sure they got the advice they wanted—advice that, when it saw the light of day, people said: How could anybody possibly write a legal memorandum like that?

Jack Goldsmith, who came in briefly to head the Justice Department's Office of Legal Counsel, described the program as a ''legal mess.'' He is a conservative Republican. He looked at this and said: It is a legal mess. Now, the administration does not want a court to get a chance to look at this legal mess. Retroactive immunity would assure that they get their wish and that nobody could ask how and why they broke the law.

Frankly, I do not believe anybody is above the law. I do not believe a President is, I do not believe a Senator is, I do not believe anybody is.

I do not believe that Congress can or should seek to take rights and legal claims from those already harmed. I support the efforts of Senators SPECTER and WHITEHOUSE to use the legal concept of substitution to place the Government in the shoes of the private defendants who acted at its behest and to let it assume full responsibility for the illegal conduct.

Although my preference, of course, is to allow the lawsuits to go forward as they are, I believe the substitution alternative is effective. It is far preferable to retroactive immunity, and it allows this country to find out what happened.

Keep in mind why we have FISA. Congress passed that law only after we discovered the abuses of J. Edgar Hoover's FBI. Through the COINTEL Program, Hoover spied on Americans who objected and spoke out against the war in Vietnam—which pretty well involved 100 percent of the Vermont delegation in Congress.

It is like the Department of Defense today that is going around videotaping Quakers protesting the war. Quakers

always protest the war. But this administration seems to think, if you disagree with them, somehow you are an enemy of the country and they can justify spying on you. That is why we put these laws in place. Is memory so short around here? Is memory so short or are we so frightened by 9/11 that we are willing to throw away everything this country fought for and everything that has made this country survive as long as it has?

We were told this building was targeted by terrorists. I proudly come into this building every day to go to work. It is the highlight of my life, other than my wife and my family. But I come in here because I believe 100 Members of the Senate can be the conscience of the Nation. We can protect Americans' rights, we can protect those things that our forefathers fought a revolution for, that we fought a civil war to protect, that we fought two World Wars to protect. Now we are going to throw it away because of a group of terrorists? This is ''Alice in Wonderland.''

So as we debate these issues, let's keep in mind the reason we have FISA in the first place. As I said, back in the 1970s we learned the painful lesson that powerful surveillance tools, without adequate oversight or the checks and balances of judicial review, lead to abuses of the rights of the American people.

So I hope this debate will provide us with an opportunity to show the American people what we stand for. We can show them that we will do all we can to secure their future, but at the same time protect their cherished rights and freedoms. Those are the rights and freedoms that protected past generations and allowed us to have a future. If we do not protect them, what will our children and grandchildren have?

It is incumbent upon us to stand up for this country. When you stand up for this country, it does not mean jingoism, it does not mean sloganeering. It means protecting what is best for this country. If we do that, the terrorists will not win. The United States of America wins. The people who rely on us around the world will win. Our example will be one they will want to follow.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. 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. FEINSTEIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE FISA BILL

Mrs. FEINSTEIN. Mr. President, I know that both chairmen, Senator LEAHY of Judiciary and Senator ROCKEFELLER of Intelligence, are coming to the floor to speak on the FISA bill. I wish to take this opportunity, as a member of both those committees, to speak about two amendments I will offer when the time is appropriate. This is in morning business and, therefore, I cannot offer them at this time.

The first amendment will deal with a new question, and that question is: court review of telecom immunity. Let me explain what that means. First, this amendment is submitted on behalf of Senators BILL NELSON, CARDIN, and myself. Senator NELSON is on the Intelligence Committee. Senator CARDIN is on the Judiciary Committee. I have also worked with Senator WHITEHOUSE on this, though I believe he is going in a slightly different direction.

As Members know, the bill before us provides full retroactive immunity for electronic service providers—that is the legal language—that are alleged to have provided assistance as part of the Terrorist Surveillance Program. The amendment I am offering creates a judicial review by putting forth the issue of whether immunity should be granted before the FISA Court. There would be no immunity for any individual, private or public official—that is in the underlying bill—or any other company other than electronic service providers.

So the immunity provision in the Intelligence bill only relates to those providers of electronic surveillance—no one else and no other company. I hear talk this would apply to Blackwater. It does not. This is strictly for electronic surveillance.

The FISA Court has the most experience with FISA practice and surveillance law. It has an unblemished record for protecting national security secrets. It has 11 judges. They sit 24/7. It has an appellate branch, and it is knowledgeable and skilled in intelligence matters.

Under the amendment, there would be a narrowly tailored three-part review. First, the FISA Court would determine whether a telecommunications company provided the assistance alleged in the cases against them. If not, those cases are dismissed.

Second, if assistance was provided, the court would determine whether the letter sent by the Government to the telecommunications company met the requirements of 18 USC 2511. That is part of the FISA law. If they did, the companies would be shielded from lawsuits.

Let me tell you quickly what that law says. That law, in 2511(2)(a)(ii)(A) and (ii)(B), allows for a certification in writing by a person specified in section 2518(7) of this title—which means the Attorney General, Deputy Attorney General, Associate Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State who reasonably determines that a series of conditions are met: that an emergency situation exists, immediate danger of death or physical injury to any person, conspiratorial activity threatening the national security interest or conspiratorial activities characteristic of organized crime.

All those provisions, in one way or another, did exist. So a certification in writing under section 2511 must be by one of the people I enumerated, or by the Attorney General of the United States, and say that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required. Then there are some provisions setting forth the period of time during which the provision of the information, facilities, technical assistance is authorized, et cetera. That is the law.

So the question is: Were the certifications provided adequate under this law that I have read? If they were, the companies would be shielded from lawsuits.

The third part is the hardest. In any case where the defendant company did provide assistance but did not have a certification that complied with the sections I have read in 2511, the FISA Court would assess whether the company acted in good faith, as is the standard under common law. The FISA Court would determine whether the company had an objectively reasonable belief that compliance with the Government's written request or directives for assistance were lawful.

In the underlying bill, all the cases against the phone companies will be dismissed as long as the Attorney General can tell the court that the Federal Government assured the companies that the assistance it was seeking was legally permitted. That is the way it works in the underlying bill. Under this formulation, there is no court review of whether the assistance was, in fact, legal and adequate under the law or whether the companies had an objectively reasonable belief they were legal. This is a major shortcoming of any legislative or executive grant of immunity.

I thought this when I voted for the immunity provision in Intelligence. I had hoped it would be revised in the Judiciary Committee. I hadn't come upon this solution until I discussed it at length with Senator WHITEHOUSE and also with several professors of law and also with a Member of the House of Representatives. Then I thought, I wonder if this is a way to handle the immunity question that is fair and objective and handled by a court that is trained and deals with these matters on a continuing basis. I believe it is.

There are many Senators who believe the immunity provision should be taken out wholesale and that the current court case should continue. That is why I have introduced this amendment with Senators NELSON and CARDIN, which puts before the Senate a court review option. This amendment would allow phone companies to receive the immunity they are seeking, but only if the independent review by

the FISA Court determines whether the assistance that was provided is lawful on its face or the companies had a good-faith, objectively reasonable belief that it was in fact lawful.

The arguments run hot and heavy on both sides of the immunity question. They may well prevent the successful passage of a bill by both Houses. Here is some history, though.

Shortly after September 11, 2001, the Government reached out to telecommunications companies to request their assistance in what has become known as the terrorist surveillance program. Within 5 weeks of 9/11, letters were sent from senior Government officials to these companies that put a governmental directive by the executive branch, and these letters were sent every 30 to 45 days to the telecoms, from October of 2001 to January of 2007, when the program was, in fact, put under FISA Court orders.

Only a very small number of people in these companies had the security clearances to be allowed to read and evaluate these letters or directives. And then even they could only discuss the legal ramifications internally. They could not go out and get other opinions and vet it. That is a fact.

We also know that at the time the requests and directives were made, there was an ongoing acute national threat. The administration was warning that more attacks might be imminent, and we now know there was a plot to launch a second wave of attacks against the west coast. In such an environment, I believe, and I think most of us believe, the private sector should help the Government when it is legal to do so. In fact, we should want the private sector to do all it can to help protect our Nation.

In addition, there has been a longstanding principle in common law that if the Government asks a private party for help and makes such assurances the help is legal, the person or company should be allowed to provide assistance without fear of being held liable.

One would think this should especially be true in the case of protecting our Nation's security.

However, this is not a situation that had not been contemplated or prepared for. Congress passed FISA and included language in that statute to address such situations regarding how and when the Federal Government may seek assistance from private companies when conducting electronic surveillance, where there is no court warrant. Those are the sections I have read to you. In fact, the law is very clear on this and under what circumstances a telecommunications company may provide such information and services to the Government, again, as I have indicated.

Assistance can always be provided when there is a court warrant. In this case, unfortunately, the administration did not even attempt to get a FISA Court warrant. It essentially dismissed FISA out of hand as a remedy. That is most unfortunate. The question comes, should the telecoms be blamed for that? I think that is something we need to grapple with.

The administration could have gone to the FISA Court. It chose under its article II power or its misinterpretation of the AUMF that it would not do that. Is that the responsibility of the telecoms?

As I have said, under United States Code, title 18, section 2511, the sections I have read, assistance may be provided without warrant if the Government provides a certification in writing that ''no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required.'' That is the law.

With that said, I have read the letters that were sent to the telecom companies every 30 to 45 days for several years requesting assistance and providing legal assurances. No one can say now with legal certainty that the certification requirements of section 2511 were or were not met. I believe this is a question that should be addressed by a Federal court, and I further believe that the Foreign Intelligence Surveillance Court is the court to do it.

The administration has had its own view that article II of the Constitution provided the President with the authority to conduct international electronic surveillance outside the law, as long as it complied with the Fourth Amendment. To what extent the phone companies relied on this legal theory I do not know, nor does anyone else at this time, I believe.

But the companies have a reasonable argument. They relied on written assurances in which the Attorney General, the top law enforcement officer of the country, said their assistance was lawful. They were not able to do due diligence because of security limitations. We have no way of knowing the full content of their deliberations regarding article II authority of the President, despite testimony they have given to us on the Intelligence and Judiciary Committees.

In addition, these companies face serious, potentially extraordinarily costly, litigation and are unable at the present time to defend themselves in court or in public because of the Government's use of the state secrets defense. This places the companies in a fundamentally unfair place. Individuals and groups have made allegations to which the companies cannot answer, nor can they respond to what they believe are misstatements of fact and untruths.

I asked the companies, when somebody opposed to their position came to testify before a committee of the other body: Why don't you testify and respond? They said: Because our hands are tied; we cannot.

So today we are in a situation that creates a difficult and consequential problem for Congress to address. The way Senator NELSON of Florida and Senator CARDIN and I see this is that the question of whether telecommunications companies should receive immunity hinges on whether the letters the Government sent to these companies meet the requirements of 18 U.S.C. 2511. If not, did the companies have a good-faith reason to believe there was a lawful reason to comply? In other words, we should not grant immunity if companies were willingly and knowingly violating the law.

I believe the best solution is to allow an independent court, skilled in intelligence matters, to review the applicable law and determine whether the requirements of the law or the common law principle were, in fact, met. If they were, the companies would receive immunity. If not, they would not.

I wish to briefly speak on the second amendment which I will broach at the appropriate time, and that is the question of exclusivity. This amendment is cosponsored by both chairmen, Senators ROCKEFELLER and LEAHY, Senators NELSON, WHITEHOUSE, WYDEN, HAGEL, MENENDEZ, and SNOWE. I will describe it briefly.

We add language to reinforce the existing FISA exclusivity language in Title 18 by making that language part of the FISA bill which is codified in Title 50. The second provision answers the so-called AUMF, the authorization to use military force, resolution loophole. The administration has argued that the authorization of military force against al-Qaida and the Taliban implicitly authorized warrantless electronic surveillance. My amendment states that only an express statutory authorization for electronic surveillance in future legislation shall constitute an additional authority outside of FISA. This makes clear that only specific future law that provides an exception to FISA can supersede FISA.

Third, the amendment makes a similar change to the penalty section of FISA. Currently, FISA says it is a criminal penalty to conduct electronic surveillance except as authorized by statute. This amendment replaces the general language with a prohibition on any electronic surveillance except as authorized by FISA by the corresponding parts of title 18 that govern domestic criminal wiretapping or any future express statutory authorization for surveillance.

And finally, the amendment requires more clarity in a certification that the Government provides to a telecom company when it requests assistance for surveillance and there is no court order.

Remember, on the question of immunity, we have existing law. The law I read earlier is vague and it is subject to interpretation. The question is whether we do the interpretation or whether a proper authority does the interpretation which, of course, is a court of law, namely, in this case, the FISA Court.

Currently, certifications must say under 18 U.S.C. 2511 that all statutory

requirements for assistance must be met. The telecom official receiving that certification is not given any specifics on what those statutory requirements are, so the company cannot conduct its own legal review.

This amendment would require that if the assistance is based on statutory authorization, the certification must specify what provision in law provides that authority and that the conditions of that provision have been met.

I believe our amendment will strengthen the exclusivity of FISA, and I believe it is absolutely critical. Without this, we leave the door open for future violations of FISA.

When FISA was first enacted in 1978, there was a big debate between the Congress and the executive branch over whether the President was bound by law. We have had a repeat of that debate over the past 2 years since learning of the existence of the terrorist surveillance program. But the end result of the debate in the 1970s was clear. FISA was established as the exclusive means by which the Government may conduct electronic surveillance for foreign intelligence purposes, period. FISA was meant to be exclusive, and section 2511(f) of title 18 of the United States Code states that it is, in fact, the exclusive authority for domestic criminal wiretapping and that ''the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such act, and the interception of domestic wire, oral, and electronic communications may be conducted for foreign intelligence purposes.''

The legislative history is clear—ignored, but clear. In stating that ''FISA would prohibit the President, notwithstanding any inherent powers, from violating the terms of that legislation,'' the 1978 report language was a clear statement of the intent of the Congress at that time, just as this amendment is now.

Congress also wrote in 1978 that in terms of authority for conducting surveillance, ''FISA does not simply leave Presidential powers where it finds them. To the contrary. The bill substitutes a clear legislative authorization pursuant to statutory, not constitutional, standards.''

President Carter signed the 1978 bill. His signing statement said this:

This bill requires for the first time a prior judicial warrant for all

In italics—

all electronic surveillance for foreign intelligence or counterintelligence purposes in the United States in which communications of U.S. persons might be intercepted.

So it is crystal clear on its face that FISA was the only legal authority under which the President could proceed when he authorized the ''Terrorist Surveillance Program'' after September 11. He chose not to. And this is where the issue becomes joined, I believe, one day before the highest Court of the land: whether the President's Article II power essentially still supersedes these clear statements of legislative intent and clear drafting of law over many decades.

To make matters worse, the administration claimed and still does claim that the resolution to authorize the use of force against al-Qaida and the Taliban provided authority to institute the Terrorist Surveillance Program. It does not.

I do not know one Member of Congress who believes they voted for the TSP when they voted to authorize the use of force. It was never contemplated, and I was present at many of those discussions, in private and in public. It was never considered.

In fact, FISA allows for 15 days of warrantless surveillance following a declaration of war. So Congress in 1978 had spoken on the issue of wartime authorities, and it did not leave open the possibility of open-ended warrantless surveillance.

Then the Department of Justice came to the Congress in September of 2001 with the PATRIOT Act. The legislation included numerous changes needed to FISA to wage this new war, but the administration did not request changes that would allow the TSP, the Terrorist Surveillance Program, to function lawfully. Nor did the administration express the limitations on FISA surveillance that the TSP was created to overcome.

In effect, we have a claim from this administration, which has never been recanted, that the President has the authority to conduct surveillance outside of FISA. We are spending enormous time and effort to rewrite FISA, but there is no guarantee that the President will not again authorize some new surveillance program outside the law. That is why those of us who put this amendment together have taken so much time to write strong exclusivity language right into this law.

When I have asked the Director of National Intelligence about this, he has said that with the new FISA authorities in this bill, the intelligence community wouldn't need to go outside of FISA. I would like to find comfort in this response, but I don't, and that is why I am offering this exclusivity amendment.

The President does not have the right to collect the content of Americans' communications without obeying the governing law, and that law is FISA.

I recognize the administration disagrees with me on this point. The White House believes the President's Article II authority allows him to conduct intelligence surveillance regardless of what Congress legislates. I disagree.

However, we are not going to resolve that question. As I said, ultimately it is for the Supreme Court to decide. But here now we must make the strongest case that the only authority for electronic surveillance is FISA, and we must again be as clear as possible exactly when FISA authorizes such surveillance.

That is our function under article I of the Constitution.

Let me say, however, despite the fundamental differences of views over separation of powers, this amendment has been carefully negotiated with officials at the Department of Justice, the Office of the Director of National Intelligence, and the National Security Agency. The executive branch has not raised operational problems or concerns with this language.

This exclusivity amendment will not affect ongoing or planned surveillance operations. Of course, I should also say clearly that the executive branch does not support the language. They do not want FISA to be the exclusive authority. But, legislatively, that has been the intention of this Congress since 1978.

I have tried to perform my due diligence on this whole terrorist surveillance program and the FISA issue since the news of the warrantless surveillance broke in December of 2005. I have become convinced that without strong exclusivity language such as provided in this amendment, another Congress in the future will be faced with exactly the same thing we are now.

I will repeat what I said in December: I cannot support a bill that does not clearly reestablish the primacy of FISA. We took the first step with very modest language in the Intelligence Committee. The Judiciary Committee passed very strong language, but unfortunately it has not been added to the bill before us. Both committee chairmen have cosponsored this amendment, as well as the others I have listed. The Department of Justice and the intelligence community have thoroughly reviewed the amendment. There is no operational impact. I hope we end the question once and for all whether the President can go around the law.

At the appropriate time, I will move this amendment, and I hope it will be accepted by this body, as well as the court review of the immunity amendment.

Mrs. FEINSTEIN. Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. MCCASKILL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Madam President, this afternoon the Republicans have held an issues conference; in fact, I believe for most of the day. As a result, they have not been here today to engage in discussion on the Indian Health Care Improvement Act. I just finished speaking with Senator MURKOWSKI, vice chairman of the committee. We talked about the bill. She has played a significant role as vice chairman in bringing

this Indian health care improvement bill to the floor. We both would like those who have amendments to provide notice to us of their amendments.

Our cloakrooms have asked for a list of amendments so that we may process them. It appears, based on what the majority leader indicated, that we will at some point today, perhaps in the next hour or two, turn to the Foreign Intelligence Surveillance Act. The reason for that is, there is a deadline of February 1 by which that Act has to be renewed. It expires and we have to take action to renew it. It will be controversial and cause quite a debate. So what the majority leader has indicated is that he will turn to the Foreign Intelligence Surveillance Act, and we will be on that tonight, tomorrow, perhaps Friday and Saturday—who knows?—and that following completion of that, he will bring the Indian health care improvement bill back to the floor.

My appreciation to the majority leader, he is trying to balance some difficult things. He, for the first time in 10 years, decided we should do what we should have done in the last 10 years, and that is reauthorize Indian health care.

We have a scandal in Indian health care with full scale rationing. Only 40 percent of health care needs are being met. We have people dying today on reservations because health care that we take for granted for our families, many of us, is not being made available on Indian reservations. I thank Senator REID for allowing us to come to the floor and putting this in the schedule. When it is pulled from the floor to go to FISA, it will be brought back next week or when FISA is completed. I appreciate that.

I notice my colleague from South Dakota, Mr. JOHNSON, is here. Senator JOHNSON and I share the Standing Rock Sioux Indian reservation that straddles our boundary of North and South Dakota. It is a large reservation. Both of us have been there many times. South Dakota has a number of other Indian reservations. Senator JOHNSON, as a member of the committee, has done superb work with us to put this legislation together. I appreciate his help and his attention to what is an urgent priority for American Indians, to get the health care this country long ago promised. We wrote it in treaties. We have a trust responsibility. That responsibility is affirmed by the Supreme Court of the United States. Yet we have had broken promises and broken treaties. At long last we must affirm our responsibility to say to Native Americans: It is our responsibility. We assumed that responsibility to provide decent and good health care, health care we can be proud of for Native Americans. That is what this discussion is about.

Because I have seen my colleague from South Dakota come into the Chamber, I did want to say a special thanks to him. I know my colleague, Senator MURKOWSKI, and other Republicans and Democrats on the committee worked hard. We all worked together—it was bipartisan—in getting this bill to the floor. Senator JOHNSON, over a long period of time, has worked to make this day happen. Let me thank him for his great work.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Madam President, I am here to speak in favor of the Indian Health Care Improvement Act. To the nine treaty tribes in my State, and hundreds of others around the country, this bill is truly a matter of life and death. It is a sad fact that the six counties in America with the lowest life expectancy are tribal counties in South Dakota.

Poor health care affects not only life expectancy but also the quality of life for American Indians; it is also preventable. My office gets hundreds of calls from constituents needing help with even the most basic needs that ought to be met by the Indian Health Service.

For example, Butch Artichoker from the Rosebud Sioux Tribe told my office he did not want to have a cancer test because he would not be able to get contract health treatment from IHS if the test was positive. His situation is not unique.

Another man from Pine Ridge contacted my office after receiving the results of a cancer test that showed his PSA levels were ten times above normal. He could not get a referral for a treatment MRI because, according to IHS, his cancer was not a priority one—threat to life or limb.

I am a cancer survivor myself thanks to early screening and detection, which are paramount for effective treatment. This is also true for mental health problems and many other treatable disorders. Passing this bill will not fix every health problem facing Indian Country, but it is a major step that we need to take.

I returned from my own health challenges with a better appreciation of what individuals and families go through when they face the hardship of catastrophic health issues.

Providing better health care through IHS will serve not just American Indians but protect the overall public health network for my State and the rest of the country.

IHS is a vital part of the patchwork of providers that serve our State and when one of these providers improves, the entire system benefits. This is not just a tribal issue or an Indian bill, but a moral issue for individuals and families as well as the integrity of my State and our country.

I thank Senator DORGAN for his leadership and persistence. I ask that my colleagues quickly pass this bill, as these improvements to Indian health care are long overdue.

I yield the floor.

Mr. DORGAN. 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. SALAZAR. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SALAZAR. Madam President, I rise in strong support of S. 1200, the Indian Health Care Improvement Act of 2007, which will reauthorize, improve, and expand necessary health care services and programs for the Native American population. I thank Chairman DORGAN and Ranking Member MURKOWSKI of the committee for their leadership on this legislation. I also thank my colleagues on the Finance Committee, Senator BAUCUS and Ranking Member GRASSLEY, for their leadership and contribution. The work we have done in the last year and the debate we will have this week is a debate that is long overdue.

It has been 16 years since Congress conducted a comprehensive review of the Indian Health Care Improvement Act, 16 years since we addressed the persistent health disparities in Native American communities across the Nation.

This bill is vital to millions of Native Americans across the country, including the 52,000 Native Americans who reside in my State of Colorado.

Colorado is home to two sovereign American Indian nations: the Ute Mountain Ute Tribe and the Southern Ute Tribe. They are located in the southwestern part of Colorado. But as we must remember—and my colleagues have alluded to this in this week's debate—the majority of Native Americans across this country, including in Colorado, do not live on the reservations. In Colorado, members of 35 different tribal nations live in the urban, suburban, and rural communities of my State, from Durango to Denver.

It is hard for us in this Chamber and in America to overstate the contributions of Native Americans to our economy, our society, our culture, and our history.

In my State, the Utes are the oldest known continuous residents of Colorado. The earliest Ute tribes traveled along the eastern slope of the Rocky Mountains before settling in Colorado, Utah, and New Mexico. In western Colorado, they hunted, gathered, and worked the lands, often moving with the seasons to better climates to better their possibilities of livelihood. The Spanish arrived in the Southwest—in Colorado and New Mexico—in the late 1500s—in the 1630s and 1640s—and in the beginning, they became the trading partners for the Utes, exchanging tools for meats and fur.

What followed that chapter is a set of very sad chapters in Colorado and the United States. It was a set of sad chapters characterized by violence, retaliation, and tragedy, much of it at the hands of the Federal Government.

Over the next few decades, under pressure from the Federal Government,

the Utes would enter into agreements to establish reservations, but this included giving up very large sections of their land. While a small part of that land was ultimately returned to the Utes in the two reservations that were set up in Colorado and the one that was set up in Utah, the modern-day reservations are the result of various Government actions, encroachment by settlers, and mining interests that ultimately limited the two tribes in Colorado to a small percentage of the reservations that were originally contemplated for the Ute Indians before the existing reservations were established.

The issues confronting Native American communities today are inextricably tied to this history. The Federal Government's responsibility to Native American communities is likewise tied to this very difficult and painful history.

But this week, under the leadership of Chairman DORGAN, we hope to write another chapter into this history. We hope to take another step toward making good on the Federal Government's promise to improve health care for Native Americans.

The health care statistics for Native American communities do not lie, and they are troubling. They should be troubling to all of us here in America. The infant mortality rate is 150 percent greater for Native Americans than that of Caucasian infants. Native Americans are 2.6 times more likely to be diagnosed with diabetes. Life expectancy for Native Americans is 6 years less than the rest of the U.S. population. Suicide rates—suicide rates—for Native Americans are 250 percent higher than the national average.

The health care disparities we see throughout the country are also evident in my State of Colorado. In 2006—that was not too long ago—5.5 percent of Native Americans died from diabetes, more than twice the rate of the general population. In the same year, 3.9 percent of Native Americans died from chronic liver disease, compared with 1.6 percent for the general population.

For many Native Americans, access to health care is the biggest challenge they face as human beings. I have heard countless stories of individuals, Native Americans in my State, who are sick or are in pain and have to drive hundreds of miles to receive any kind of treatment. When they get there, after having driven sometimes 9 hours, they will find that the clinic cannot provide them the treatment they seek. Those services, they learn, are in hospitals located hundreds of miles away.

Access problems affect not only Native Americans on reservations that span hundreds of miles but Native Americans living in urban areas as well.

For the 25,000 Native Americans living in Denver, CO, today, there is only 1 health care facility that is available to meet their health care needs. That is the Denver Indian Health and Family Services facility. This facility is funded by the Indian Health Service program through funding allocated through title V of the Indian Health Care Improvement Act, which provides funding for urban health centers for Native Americans.

The Denver Indian Health and Family Services began providing health care onsite to Native Americans living in the Denver metro area in 1978. The majority of its patients are single parents, making an average of $621 per month—$621 per month. That is a total of approximately $7,400 a year. That is not a lot of money for any family. When a patient needs specialized treatment, however, they often have to travel 6, 7, 8, 9 hours to places such as Rapid City, SD, or Albuquerque, NM. This is a long trip for anyone, particularly if they are sick or injured.

The U.S. Government has a longstanding and solemn responsibility to the Native American population of our country. That responsibility is set forth and recognized in treaties, statutes, U.S. Supreme Court cases, agreements, and in our U.S. Constitution. It is a trust responsibility that flows from Native Americans' relinquishment of over 500 million acres of land to the United States of America. Native Americans see the reauthorization of this health care bill as part of the U.S. Government living up to its end of the bargain with tribal governments. And they are right.

The disparities in health care between Native Americans and the general population is a real problem, and it is one Congress has a responsibility to address. I am proud of the bill we are considering today because it takes major steps toward reducing the health care disparities that persist in Native American communities.

Although appropriations for IHS have traditionally fallen far short of the actual health care needed in Indian Country, the focus on preventive care in current reauthorization legislation will make more efficient use of the Indian Health Service's limited resources.

Difficulties in recruiting and retaining qualified health professionals have long been recognized as a significant factor impairing Native Americans' access to health care services. The programs authorized in this bill will help recruit Native Americans into the health care profession. Additionally, this bill provides for health education in schools, mammography and other screenings for cancer, and helps cover the cost of patient travel to receive health care services. Additionally, this legislation removes barriers and increases participation and access to Medicare and Medicaid Program benefits.

Title V of this legislation would also fund programs in urban centers to ensure that health services are accessible and available to Native Americans living in cities across the country, such as Denver, CO. Key programs include immunization, behavioral health, alcohol and substance abuse programs, and diabetes prevention, treatment, and control.

In addition to reauthorizing and expanding existing programs, this legislation will ensure that Native Americans are able to take full advantage of new technologies and new Federal programs that have emerged since the last reauthorization, including Medicare Part D and the State Children's Health Insurance Program. Indian health programs should work hand-in-glove with these new programs and new resources.

Native Americans in the United States of America deserve access to a 21st-century health care system.

I again thank my colleagues, Senator DORGAN, the chairman of the committee, and Senator MURKOWSKI, for their bipartisan leadership on this very important legislation and for their tireless leadership for Native American communities across the country.

I hope my colleagues will support this bill. We need to get this bill to the President's desk as soon as possible.

In conclusion, as we look at the United States of America, we see an America that is an America that has a covenant about being an America in progress. We see it in a number of different ways—in the ways which we have treated women and other racial or ethnic minorities. But there is a sad and painful story to this America in progress that is particularly poignant when you look at how we, as the United States of America, have treated the Native American communities of our Nation. So this is an issue in my mind that is a fundamental issue of civil rights. It is a fundamental issue we must resolve in order to be able to uphold this covenant of America that makes us an America in progress.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I thank the Senator from Colorado, who is a strong voice for fairness and justice and for health care on Indian reservations. I appreciate very much his work and his relentless determination to help us get this done. I know he comes from a State that has a good number of Indian tribes and that he has toured those areas and is very concerned about this issue.

Madam President, I want to, in just a couple minutes, show once again a photograph of a man I showed yesterday during this discussion. His name is Lyle Frechette. Lyle Frechette, shown in this photograph, was a member of the Menominee Tribe of Indians in Wisconsin. He came of age during a time when there was what was called the ''termination and relocation era of Indians.''

This picture of Lyle Frechette is a picture of a high school graduate who was newly entering the Marine Corps to proudly serve his country. I showed that photograph yesterday to describe

that there is no group of Americans that has served their country in the military in larger numbers per capita than Native Americans—than American Indians and Native Alaskans. There is just no group that has enlisted in higher numbers to support their country in our military. This is a photograph of one of them. His experience, following his service in the Marines, was the experience of so many Indians.

During the termination and relocation period, many of them were given one-way bus tickets and told: You need to mainstream; you need to go to a city someplace. They found they had limited opportunities in the cities. They lost their health care capability. It was a time that we are now not proud of in terms of public policy because it was the wrong thing to have done, particularly when we had promised a trust responsibility, providing health care for Native Americans.

SPENDING PRACTICES AT VETERANS CHARITIES

Madam President, I wanted to show that photograph again because I wanted to say something else that is not on the topic of this bill but something I read last Friday which has bothered me ever since I read it. It deals with those such as Lyle Frechette and others who joined the military and became soldiers for our country.

The Washington Post, last Friday, contained a story about a hearing that was held the day before in the U.S. House of Representatives. It was a hearing about spending practices at veterans charities.

There is an organization that has evaluated various charities that have been established to provide assistance for veterans. That organization, the American Institute of Philanthropy—which is the leading watchdog group—said there are about 19 military-oriented charities that manage their resources very poorly.

But let me describe what made my blood boil Friday morning when I read it. I was not aware of it. But Help Hospitalized Veterans—a tax-exempt organization—Help Hospitalized Veterans—an organization that is presumably going to collect funds from around the country to help hospitalized veterans—it spent, according to the report, hundreds of thousands of dollars in donations that were to help wounded soldiers on personal expenses instead for those who were running the organization. Instead of helping wounded soldiers as the title says—Help Hospitalized Veterans—those who were running the charity were bathing themselves in cash: a $135,000 loan to the fellow who runs the organization for a divorce settlement with his former wife; a $17,000 country club membership; a $1 million loan to Mr. Viguerie, the direct mail guru, for a startup initiative at his firm.

The second charity, the Coalition to Support America's Heroes—also a charity designed presumably to help America's veterans—was fundraising, getting tax-exempt donations or tax-deductible donations, and they used a four-star general, retired Four-Star GEN Tommy Franks, to sign letters of solicitation asking for funds, and paid him $100,000 for that. Now, I think Tommy Franks ought to explain to the Congress and ought to explain to veterans why a retired four-star general is being paid $100,000 to sign letters to solicit money to help veterans. I think GEN Tommy Franks has a lot of questions to answer, including a number of questions dating back about 4 years, from me and others. But I was very surprised that a charity is paying $100,000 to a retired four-star general for allowing his name to be used to solicit funds from individuals across the country to help veterans.

The Help Hospitalized Veterans raised more than $168 million from 2004 to 2006. They raised $168 million from 2004 to 2006, and they spent one-quarter of it on veterans. Let me say that again. They raised $168 million of tax-deductible contributions to an organization called the Coalition—excuse me, this is Help Hospitalized Veterans—raised $168 million, and one-quarter of it went to help veterans; the rest went elsewhere. That is unbelievable, just unbelievable. In this Congress—I hope the committee in the House that held these hearings will continue, and I am now evaluating whether we can begin a series of similar hearings. I think that is equivalent to theft, and I hope very much that we will continue to apply heat to those who would use veterans' names in this manner. An organization that solicits $168 million and uses only one-fourth of it in support of veterans when their title is Coalition to Support America's Heroes—or I guess Help Hospitalized Veterans, one of the two—one-fourth of the money is used to go to veterans, the rest of it is going for country club memberships and loans for divorce settlements. That is unbelievable to me. I hope very much that both the House and the Senate will continue to aggressively investigate these organizations, and I hope perhaps if we have some hearings, we might ask retired GEN Tommy Franks to come and explain to us why it is appropriate for him to accept $100,000 that comes from tax-deductible donations in order to sign a letter soliciting money that is presumed to be in support of veterans when, in fact, three-quarters of the money went elsewhere.

My colleague from Alaska has come to the floor, and I want to again say it has been a pleasure to work with her. She is vice chairman of the Indian Affairs Committee and has done a remarkable job. She, perhaps more than anyone in the 48 States and the mainland, has very unique issues in the State of Alaska, because the Native Alaskan villages are remote and the health care issues that relate to them are different, difficult, and unusual, and she has represented that situation aggressively and relentlessly as we have tried to put legislation together to address it. I thank her for the work she has done, and I look forward to working with her. We will not apparently finish this bill today, but we will get the bill back on the floor following the Foreign Intelligence Surveillance Act, and when we do—the two of us have talked—we very much are intent on finishing this in 1 day and getting to conference, getting the bill to the President, and getting it signed.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I thank the chairman of the committee for his great cooperation on this very important issue. I know we had all hoped—certainly my constituents had hoped, and I think my colleagues as well, as so many around the country who have been waiting years—literally waiting a decade—for reauthorization of this Indian Health Care Improvement Act. We are pleased that we are on the floor. We would like to see this moved through the process as quickly as possible. We understand the issues we have in front of us and what we have to do in order to get this through, but I appreciate the great leadership of the chairman of the Indian Affairs Committee and of so many who have worked to advance this legislation.

I thank Chairman DORGAN for reminding all of us of the great contributions we have had from so many of our American Indians, Alaska Natives, when it comes to serving our country. I think if you look at the demographics and look at it on a per-capita basis, we see higher numbers, certainly in Alaska, of our Alaska Natives serving in the military than any other populations in the State, serving admirably over the years, whether they be the Eskimo Scouts or whether they be the group serving from the National Guard which recently returned from Kuwait.

I had an opportunity a couple of months ago to meet those Alaskans who were returning. I met up with them in Camp Shelby and had an opportunity to talk to the men who were returning from Kuwait after well over a year. They had been in the desert. Most of these soldiers came from villages from around the State. There were some 80 villages—communities—that were represented amongst this particular unit. Many of them, when they returned back home to Alaska after coming from the desert and going home to the snow, would be returning to very small towns and very small villages that are not connected by any form of a road system. During the winter months, you have connection because the rivers are now frozen and you can take a snow machine to get from one small village to another and hopefully out to a larger hub community. But the reality is so many of these fine men who have served our country are going back to areas where health care options are very limited.

Yesterday I had an opportunity to show my colleagues a couple of pictures. There is one of the health clinic

in Atka. We also had a picture of the health clinic in Arctic Village. As you look at the pictures, you can see the health clinics are small and they are clearly broken down. They are older facilities. They are very limited in terms of what they can provide. But this is what we have out in these villages. These soldiers who are returning need to go to the VA for services. They don't have a VA out in Chevak. They don't have a VA facility out there in Atka. They have the Atka Village Health Clinic. This is a two-story clinic, so it is by all standards perhaps better than some of the others in some of our villages. But what we have seen in a State like Alaska where access to care is so very limited, is the IHS facility essentially ends up being the entity that will provide for that level of care for that serviceman, for that veteran, because to get from Atka to Anchorage, to the Anchorage Native Medical Center, is costly. Sometimes the VA picks up the travel, sometimes not. It depends on your income eligibility. If there isn't any—if the Government is not there to pick up your costs, not only do you have the cost of air travel, which can be upwards of $1,000 for your roundtrip fare, but you have your expenses while you are in the city—in town.

So we look at what is provided to so many in our small clinics around the State. Now, is it right that the clinic should have to pick up or basically carry the water or carry the bag for the VA? Not necessarily, no. But is this where we can provide for a level of care that is in the village for the individual, with their family, and ultimately reducing so many of the travel costs that are there? Absolutely. So I say this to my colleagues, so people can understand that oftentimes what we are dealing with in terms of access when you are in a State where it is so rural, where you don't have roads, or the cost to travel is prohibitive, we have to be more creative in how we provide for the level of care. In Alaska, we think we are being more creative with that. But with the reauthorization of the Indian Health Care Improvement Act, it allows and facilitates greater sharing, greater cooperation, ultimately greater collaboration, that leads to greater cost savings.

I want to take a couple moments this evening—it has been mentioned by our colleague from Colorado, and certainly the chairman mentioned the provision we have in the substitute amendment regarding violence against Indian and Alaska Native women. I mentioned in my comments yesterday that we have seen some successes in Indian health, even with the very stark health statistics that have been repeated by so many on this floor. There is one area, though, where I do not believe we have made any progress, and one I am very pleased we are addressing in this bill, and that matter is the terrible violence that faces native women and children.

Back in September of 2007, the Committee on Indian Affairs held an oversight hearing on the prevalence of violence against Indian women. We had several witnesses, very compelling witnesses, at that hearing, one of whom was from Alaska, a woman by the name of Tammy Young, and she represented the Alaska Native Women's Coalition Against Domestic Violence and Sexual Assault. She testified about the intensity of such prevalence and the need for remedies to properly address the problem.

In my State, we have one major city. Anchorage holds about almost half the population of this State. The Alaska Native people make up 8 percent of the total population of Anchorage. But the percentage of Alaska Native victims in Anchorage alone was 24 percent. You can see the disparity in these numbers. Alaska has one of the highest per-capita rates of physical and sexual abuse in the Nation.

In Alaska, an Alaska Native woman has a likelihood of rape that is four times higher than a nonnative woman in the State. Our statistics are horrendous. They are deeply troubling. But we know it is not only in Alaska that there is this danger of violence that faces our Native women. Statistics show that Native women around the country are two to three times more likely to be raped than women from other populations in the United States. As I say, in Alaska it is four times higher. But even if this fact were not as disturbing as it is, it gets even worse because so many of these women who have had this violence upon them also face the prospect that the rapist may not be brought to justice.

This is for a variety of reasons. At the hearing we had a witness indicate that the health services within the Native communities simply lacked the proper infrastructure, the proper resources, to even conduct the forensic exams and therefore assist in the prosecution of the perpetrators. It is as simple as not having rape kits available in the IHS facilities in that village or that community on that reservation, simply not having the forensic equipment, not having it there. Why don't you have it there? It is a funding issue apparently. But you have a situation where you have a woman who has been violated. She comes seeking help, and she can't even have a proper exam so they can collect the evidence so she may then go on and try to prosecute the perpetrator.

In addition, it is the training. We simply do not have enough who are trained in the proper collection of the evidence. Back in 2005, we in Congress passed aggressive programs and services for the reauthorization of the Violence Against Women Act, or VAWA. The witnesses who were there at the hearing back in September advocated that we build on the foundation of VAWA. That is what this legislation does. It provides for just that. It includes programs to address domestic and sexual violence that are critical to shoring up this health infrastructure, that are necessary to support a successful prosecution, whether it is providing for rape kits at the Indian clinics and hospitals or the training for the health professionals to become the sexual assault examiners. Pretty basic stuff. But if you don't have it there, if you cannot collect the evidence, if you don't have the trained medical professionals to help facilitate that, these victims will be victimized again by simply knowing that the system has let them down.

In addition, the legislation will also require the Secretary of HHS to establish protocols and procedures for health services to victims of violence, as well as to coordinate with the Attorney General in identifying areas for improvement within the health system to support these prosecutions. I believe this aspect of the legislation is extremely important for so many. Again, our statistics in this area are devastating, unacceptable. There is more we can do about it, and this is one small step.

Mr. President, I want to talk about one aspect of the Indian health care reauthorization. I don't believe many of my colleagues have spoken to the underlying policy of self-determination and self-governance, but that is such an integral part of this reauthorization. The Federal policy of self-determination was conceived by President Nixon in the early 1970s, and it has been nurtured or improved upon by almost every administration since then. The legislation, S. 1200, embraces these policies in a very profound manner.

Indian self-determination represents one of our Nation's first enlightened Federal Indian policies. It has been by far the most successful policy in improving the lives of American Indians and Alaska Native people. This policy has been embodied in Federal legislation for over 30 years in the Indian Self-Determination and Education Assistance Act.

S. 1200 facilitates the important interplay between the Indian health care delivery system within the Department of Health and Human Services and the policy of Indian self-determination and self-governance. Beginning in the 1990s, there were a growing number of Indian tribes and Alaska Natives who have taken over the IHS programs. They have made them more efficient and responsive and, I would say, more relevant to the local needs.

In Alaska, I think we can point to what has happened in the area of self-governance as a good example, a positive example of how the Native people have embraced this policy of self-determination and self-governance.

In April 2003, the Committee on Indian Affairs held a hearing on an earlier version of this bill. We had a gentleman there from Seldovia Village, President Don Kashevaroff. He testified about how Alaska Natives began compacting IHS programs in 1997 and how, within 6 years, they had compacted virtually all of the IHS programs within the State of Alaska.

Now, within my State, the Indian health care system is almost entirely a Native-driven system. Senator STEVENS, my colleague, spoke to this in his comments on the Senate floor yesterday. When you take into account that in Alaska there are about 230 separate Native villages, you manage the numbers there, and despite this large number of separate sovereign governments spread out across a State with enormous distances from each other, spread out from the State's metropolitan area, they were able to create a highly efficient and integrated health care delivery system.

I showed you the pictures earlier of the clinics in Arctic Village. Behind me in the photo is the Alaska Native Medical Center, located in Anchorage. Quite different. Yet what we have there in Anchorage at the ANMC is a model for others to view. In Alaska, we have 180 small community health centers, about 180 of what you saw with the Arctic Village clinic, and they provide primary care. We have 25 subregional midlevel care centers. There are four multiphysician health centers, six regional hospitals, and one tertiary care facility. The Alaska Native Medical Center in this picture is that one tertiary care facility. So in the entire State, the Alaska Native Medical Center is the one that provides that tertiary care.

This system was made possible through the Indian Self-Determination Act. This health care system is tailored to meet the very unique needs of the Native people. I don't believe it would have been possible within the administrative structure of the Indian Health Service itself.

Now, I don't want to spend all my time just talking about the situation in Alaska because the success story that you see there is by no means limited to my State. Self-governance is being embraced in several other areas of the country as well: in the Pacific Northwest, the Southwest, in Oklahoma, and in other parts of the country. I think it is important to note that many tribes and tribal organizations have supplemented their IHS programs with their own resources where possible. The Indian Health Service has documented the fact that Federal Indian health programs are only meeting approximately 60 percent of the need. You have heard that time and time again as we have discussed this. Only about 60 percent of that need is met.

The hearings on Indian health held by the committee and information from a 2005 GAO report demonstrated that this underfunding has led to rationing health care within the Indian community. Of course, the unfortunate result of this underfunding is exactly as you have heard many of my colleagues say. It results in many American Indians either foregoing any kind of treatment or delaying receiving medical care, which in turn, then, leads to disease progression. But ultimately it leads to higher costs, greater costs to the system.

I want to point out that several tribes have stepped up with their own resources to enter joint ventures with the Federal Government or to even supplement the Federal dollars in an effort to bridge that 60 percent gap we keep talking about between the Federal funding and the level of need. I want to show a few of the examples.

In the Cherokee Nation in Northeast Oklahoma, we have a self-governance tribe with one of the largest service populations in the country. The Cherokees have just constructed a new clinic in Muskogee, OK, using their own tribal dollars. This facility serves Indian people in northeastern Oklahoma, including members of the Osage, Muskogee Creek, Choctaw, and numerous other tribes.

We also have the Muckleshoot Tribe in Auburn, WA, which built this facility in 2005 at a cost of nearly $20 million using its own tribal dollars. The Muckleshoot facility is located near the I–5 corridor in Washington and also provides very tailored care for its patients. As you can see from the picture, they try to cater to some of the younger patients as well.

Another Oklahoma tribe in southeastern Oklahoma is the Choctaw Nation, which used their own tribal dollars to construct a 54,000-square-foot facility at a cost of $13.5 million. In this facility the average monthly patient encounter over the past 12 months has been over 3,800 patients.

Out in Oregon, located in Chiloquin, we have the Klamath Tribe Health Center built in 2004, paid for through a unique partnership between the Klamath Indian Tribe and the IHS, as a health center that primarily serves the Klamath Tribe. It serves a tribal population of 2,890 individuals and cost $3.6 million to construct.

The last one I want to share with you comes out of Bylas, AZ, and the San Carlos Apache Tribe has constructed this two-building complex on its reservation, which is about 130 miles east of Phoenix. As the main source of primary care for Indians there, this clinic provides dental, behavioral health, optometry, laboratory, pharmacy, health education, and preventive care, among other services.

I use these examples to demonstrate some of the many cases where tribal ingenuity and resourcefulness have changed the Indian health care system for the better. I think this is illustrative of what can happen when the tribes are given the flexibility to plan, to develop, and to determine the future for their own people. We promote that ingenuity in this bill through the amendment to the Indian Self-Determination Act, which will make it possible to bring private sector money into Indian communities to supplement—again, I repeat ''supplement,'' not supplant—the Federal resources that are appropriated by Congress.

S. 1200 establishes the Native American Health and Wellness Foundation, the primary purpose of which will be to support the mission of the Indian Health Service by supplementing the Federal resources with private funds and, hopefully, bringing the level of funding for Indian health care closer to that level of need.

Mr. President, I will conclude my remarks this afternoon by repeating that within the Indian health system, you have great disparity. You have seen some of the pictures of beautiful facilities and some pictures of facilities that are in desperate need of help. We have heard stories that just break your heart of people who were denied services, of people whose illness was only compounded because of failures within the system.

But we have also heard some statistics that give us cause for hope that we are making headway within the system in terms of some of the chronic diseases and how we might approach them. Through the Indian health care reauthorization, we focus on those areas that will allow us to do better, whether it is in the area of behavioral health, additional screenings, those programs that focus on prevention, those programs that focus on wellness, so that we can, A, lower our cost of health care but, B, to really allow American Indians and Alaska Natives to have a quality of health care that is at least on par with what you would get if you went to a non-IHS facility.

We have not advanced legislation that would update the Indian Health Care Act since 1992. As I have said, all one needs to do is think back to what we were doing in 1992 in terms of health care. Think how far we have come with the technology. Think how far we have come with the techniques that are utilized. Let's not leave the Indian health care system 10, 20 years ago. Let's allow them to come into a level of service that we care to enjoy.

I mentioned one way we in Alaska are able to deal with the issue of access. In a large State with a small population who are not connected by roads, we have to rely on telehealth. Telemedicine has allowed us to provide for a level of care, whether it is checking out an infant's ear to make sure how bad that ear infection is or whether it is literally videoconferencing with a suicidal teenager and counseling to make sure he is not going to do something precipitous, that he knows he has somebody who is there for him. Our technology allows us to do that, but our legislation needs to be put in place to allow us to take full advantage of the changes in these intervening years.

Again, I stand with my colleague, the chairman of the Indian Affairs Committee, and urge our colleagues, if they have amendments, if there are still issues outstanding, let's work through those, let's get the amendments, but let's work through any remaining issues. We owe it to all our constituents around the country to provide for a better level of care.

With this legislation, it is one small step forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I come to the floor this afternoon to join with the Senator from Alaska and the Senator from North Dakota to urge our colleagues to support this legislation that is going to make a critical difference to thousands of American Indians in Washington State and across our country.

I join in the words of my colleague, the Senator from Alaska. She mentioned several of the tribes in Washington State. This has an important impact on them. I agree with her and thank her for the tremendous work on this issue, helping us bring it to the floor and hopefully to passage so we can make a difference.

I am proud to be an original cosponsor of this Indian Health Care Improvement Act. It does reauthorize and update the health care services our Government provides to American Indians and Alaska Natives. This bill will allow our Indian health clinics and our hospitals to modernize their services and enable them to provide better preventive care. These services are vitally important in Indian Country, where our tribal members suffer from high rates of diabetes and other chronic illnesses. Our Government has a legal responsibility to provide health care for American Indians, but we have a moral responsibility to ensure we provide the best care possible.

The Indian Health Care Improvement Act has not been reauthorized since 1992, and in the years since it expired in 2001, what Congress has done is simply appropriate money for health care programs without examining this act to see how we can improve it. This bill we are now considering takes important steps toward ensuring we are providing the best and the most cost-effective care. It is long time past to pass it.

The health disparity between American Indians and the general population is great. The numbers show why this bill deserves our attention now. The infant mortality rate among Indians is 150 percent greater than for Caucasians. Indians, in fact, are 2.6 times more likely to be diagnosed with diabetes. Indians suffer from greater rates of post-traumatic stress disorder, and the suicide rate among Indians is more than twice the national average. In fact, life expectancy for American Indians is nearly 6 years less than the rest of the U.S. population.

An example from my home State of Washington helps to illustrate the impact these numbers have on Indian communities.

Three years ago, in a 6-month period, the Skokomish Tribe, which has a reservation near Hood Canal, lost 9 of its 1,000 members. Among them were two children, two young adults, and five elders. One of those elders was Bruce Miller. He was a Vietnam veteran and a nationally known artist and spiritual leader. Bruce helped restore ceremonies that were once banned by the U.S. Government. His work to prevent drug abuse and rebuild tribal customs will be sorely missed. Bruce was only 60 years old when he passed away.

Many of the Skokomish Tribe members died of conditions that are all too common on our Indian reservations—drug overdose, heart disease, cancer, diabetes. These conditions we know are preventable, and many in Indian Country have been working very hard to reverse the numbers I mentioned. But their work has been hindered because Indian health services are badly in need of updating.

The most important thing the Indian Health Care Improvement Act does is help to modernize those services. In the last 16 years, as the Senator from Alaska said, we have revolutionized the way we approach chronic illnesses such as diabetes. Doctors' offices and health clinics around the country now emphasize the importance of eating right, staying healthy. We have changed where we provide services. Instead of treating elderly and chronically ill patients in the hospital, more and more people get care at home or in a community clinic. And now, of course, it is standard practice to coordinate mental health and substance abuse and domestic violence prevention services. But while we have done all that, health care for Indians has gone badly out of date. We are still providing services today as if it was 1992.

The bill we are considering today will help bring health care for Indians into the 21st century and enable their clinics to do more than treat symptoms and instead focus on prevention and mental health.

It is particularly important to ensure Indian health clinics can provide up-to-date care because for many of our tribal members, those clinics are the only source of health care available. For tribal members in rural Washington State and across the West, visiting a doctor off the reservation often means driving for hours to get to the nearest big city. In some of our remote areas, some tribal members never see a doctor off the reservation. They are born in Indian hospitals, they see that doctor for their entire life, and they die in the same hospital.

This bill also funds urban Indian health clinics. In recent years, President Bush and some of my colleagues have questioned the need to provide health services to Indians who live in and around major cities. In fact, disappointingly, the President's budget routinely eliminates funding for the 34 urban Indian health centers that exist in this country, and every year Congress restores the funding because those centers serve thousands of Indians, many of whom are uninsured and would not get care elsewhere. The doctors and the nurses who staff those urban clinics specialize in the conditions many Indians face. Even more importantly, they are sensitive to the cultural needs of their patients. That makes the difference all too often when a patient is deciding whether to seek care or to do preventive treatment and it increases the chance that an Indian will continue to get the treatment they need, as I said, for preventive or even mental health care.

I am disappointed Republican objections have limited how far the important improvements for urban Indians in this bill can go, but this bill, as now written, does ensure those important health centers stay open. My State has two of them. I have to tell you, I have heard firsthand from a number of our tribal members how important and critical they are.

Both our urban and our rural Indian health clinics also give tribes more decisionmaking power over health programs so they can determine how best to serve their people. In Washington State, we have the Nisqually Health Clinic that is located near Olympia. It offers a community health representative program that trains the tribal members about how to provide basic preventive care and education to help their elders and members who suffer from diabetes or substance abuse.

We need to give programs such as those a boost so they can grow and they can succeed so other tribes can try similar programs. Reauthorizing the Indian Health Care Improvement Act will help us to do that.

Finally, this bill also makes important improvements to the medical benefits provided to tribal veterans. Tribal veterans, as many of my colleagues know, have served throughout this Nation's history with great honor and valor. In fact, American Indians have served in higher numbers than any other ethnic minority in this Nation. But despite that extraordinary commitment to this Nation, veterans services for American Indians oftentimes falls short of what is available for non-Indians.

Fortunately, this bill we are considering changes current law to allow the Secretary to enter into or expand arrangements to share medical facilities and services with the Department of Veterans Affairs. That provision requires consultation with the affected Indian tribes before entering into those agreements, and it requires reimbursement to the IHS, tribes or tribal organizations.

I wish to repeat something I said earlier because it is important. Providing health care to Indians is part of our Government's trust responsibility. It dates back to the 18th and 19th centuries. Congress enacted the Indian Health Care Improvement Act in 1976 to better carry out that duty. In President Ford's signing statement, he said:

> Indian people still lag behind the American people as a whole in achieving and maintaining good health. I am signing this bill because of my own conviction that our first Americans should not be last in opportunity.

Thirty-two years later, we still have a long way to go toward achieving that

goal, but we can take some important steps by reauthorizing this bill now.

HOUSING AND EMERGENCY PREPAREDNESS

While I have the floor this afternoon, I wish to change gears and talk about two other issues I heard a lot about at home—housing and emergency preparedness—because I am hearing now disturbing rumors that the President's upcoming budget proposal is going to recommend cuts in those two areas.

First, I wish to emphasize how important it is we continue to provide Federal support for police, fire, and emergency responders in all our communities. This past month, I held several roundtables with our first responders in Washington State to hear what they need to protect their communities, and at every stop, they told me they have already been squeezed by budget cuts and that they have spent the last several years trying to do more with a lot less. They said they are very worried about what it will do if their budgets are cut again.

Emergency responders in our small and rural communities are especially concerned because they depend on Federal grants to keep their communities safe. Let me give one example of the impact these grants have had in my State that I think illustrates why Federal support is so important.

A month ago, storms causing major flooding and wind damage slammed into western Washington. Thousands of our homes on the coast and in the inland counties were flooded and damaged severely. Grays Harbor County, which sits along the Pacific coast, was one of the hardest hit. But Grays Harbor emergency officials told me they were ready because they had recently done exercises to practice emergency response training.

When those horrendous storms hit, first responders in Grays Harbor County relied on vital equipment, basic radio and other safety gear. Without that training, without that equipment, more people in Grays Harbor would have been hurt in that storm. Grays Harbor had both of those thanks to Federal homeland security grants.

From the flooding in Washington State to Hurricane Katrina, to California wildfires, we have had too many opportunities now to witness the need for effective predisaster planning and response support. Real security in our communities does not come cheap.

Now, I have already written to President Bush to warn him against cutting money for port security, transit security, and emergency management grants. I am prepared to fight for these grants. Supporting and protecting Americans here at home has to be a priority for all of us.

HOUSING

When I was home, I also heard from citizens and lenders, housing counselors, people involved in the housing issues in Washington State who are very concerned about the potential cuts to housing grants they are hearing about.

Washington State is fortunate that the economy is still relatively strong compared to the rest of the Nation. But we are seeing signs of trouble. In fact, I heard from a housing official who worked in Kitsap County, one of our more rural counties. She has seen a dramatic increase in the number of people who are now seeking housing counseling. She told me that last fiscal year, their two full-time housing counselors helped homeowners with 50 defaults. They saw that many people in this first quarter alone. In fact, in the 2 days she was with me and others talking about housing, she said she went back home and there were seven more calls on her answering machine about foreclosures.

The Federal Government has to do everything possible to address this wave of foreclosures. One way we can do that is investing in housing counseling. It is vital for troubled mortgage holders to get help early so they can avoid foreclosure and keep their homes.

At a time when we are trying to work to help repair the economy and ensure people can pay their bills, we cannot afford any cuts in our budget for that safety net for our homeowners.

We also have to ensure that low-income Americans who are not homeowners also get help. That means we have to continue to support programs such as Section 8, homeless assistance, and CDBG, which will help keep our communities strong through this and help make sure our low-income residents have a home and can avoid homelessness.

Next month, when we get the President's budget sent to us, you can count on me, I will be scrutinizing every word of it, and I will be back on this floor, if necessary, to fight funding cuts to those programs that are so important to keeping our communities strong.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

HONORING PENNSYLVANIA'S TROOPS

Mr. CASEY. Mr. President, I rise today to talk about an issue which is on the minds of millions of Americans, but you would not know about it from listening to the news.

Most of the news has been focused, appropriately so I think, on the economy and the challenges we face. We are all going to be focusing on that issue and we are going to be talking a lot about it and taking action on it.

But at the same time, the war in Iraq remains an urgent issue for our country but especially for the families who are living through this, the small percentage of American families who have someone serving in Iraq, a loved one, a relative, and also, of course, the troops themselves who are serving.

So Iraq, the war in Iraq, remains an urgent issue, an issue that deserves our attention and our continued focus. Today I do not want to talk about the policy. We are going to have months and months to talk about it. I have strong feelings about it, but today I rise for a very simple but I think important reason and that is to salute the troops from the State of Pennsylvania who have recently died in the war.

In July, I came to the floor to talk about the then 169 Pennsylvania natives, in some cases residents, who had died in Iraq. Today, unfortunately, I have to add nine more since July. We all know a lot of the lyrics of the great singer and songwriter, Bruce Springsteen. I quoted them last summer when I talked about the lyrics from his song ''Missing,'' where he talked about, in the context of 9/11, those who had perished and the effect on a family.

His lyrics say, in part, he talks about waiting for that person to come home, the person who would have lost their life at the tragedy of 9/11. He says: Your house is waiting. Then he repeats it. He says: Your house is waiting for you to walk in, but you are missing.

He says: You are missing when I turn out the lights, you are missing when I close my eyes, you are missing when I see the sunrise.

And he goes on from there. I think that song and those lyrics have an awful lot of meaning for those who have lost a loved one in Iraq. Even if they did not, the time spent away in Iraq for a loved one is difficult enough but especially for a family with a member of their family who died in Iraq. They are missing, and for a lot of those families, will be missing for the rest of that family's life.

It is important to remember and remind ourselves these troops volunteered for service. They were not drafted. They knew their task would be difficult. They knew they would be in danger but they made that commitment.

In the end, they made the ultimate sacrifice. To those families across Pennsylvania, in communities such as Altoona and Falls Creek and State College and Wexford and on and on and on, the war in Iraq is not some obscure abstract policy being debated in Washington. For them, the war is something very real.

As I said before, these fighting men and women in Iraq were born into families, not divisions and brigades. These families and these communities have lost sons and daughters, husbands and wives, brothers and sisters, classmates, friends, all those relationships and all those families and communities.

We know this war has gone on longer than World War II. We know the numbers, more than 3,900 dead. In Pennsylvania, it is at 178. Nationally, the wounded number is about 28,000. In many cases, those who have been wounded are grievously, irreparably, permanently wounded.

We will not forget their sacrifice. But let me read the names of the recently lost from Pennsylvania, the nine members we have to add to our list. I will read their names and their hometowns.

First, Michael A. Hook from Altoona, Pennsylvania; Zachary Clouser, from

Dover; Michael J. Tully, Falls Creek; David A. Wieger, from North Huntingdon; Adam J. Chitjian, from the city of Philadelphia; also from the city of Philadelphia, Camy Florexil; from Pittsburgh, Ryan D. Maseth; David A. Cooper, Jr., from State College, PA; Eric M. Foster, Wexford, PA.

So after reading these nine names, we have now read, between July and this date, all those from the State of Pennsylvania who have died in Iraq since the beginning of the war.

I know we are short on time today, and we could read biographical sketches of all those 178 soldiers. But let me read a couple of notes about a few of them before I conclude.

By way of example, one of the names is Adam J. Chitjian from Philadelphia. There is a section called Somerton in the city of Philadelphia. He was on his second tour of duty in Iraq, 39 years old. He joined the Army and his brother was quoted as saying: He wanted to act rather than just talk. That is why he joined the Army.

He leaves behind a father and sister. When he visited Texas, after being in Pennsylvania and serving our country all those years, when Adam was in Texas, he met Shirley, who would later become his wife. So for that family, we are thinking of Adam and his family. He died on October 24, 2007.

Then we go backward in time to 2003 in November, Nicholas A. Tomko from Pittsburgh, and a couple highlights about his life. He was 24 years old, from just outside Pittsburgh. The town is called New Kensington. His father's name is Jack Tomko. He is quoted, in part, as saying about his son that: He was a great kid, brave as hell. And he goes on from there talking about his son.

Now this is a young man who left behind a fiance. And he was working as an armored car driver near Pittsburgh. He joined the Reserves 3 years ago hoping to get a head start in a career in law enforcement.

I wish we could say Nicholas A. Tomko would have that opportunity to serve in law enforcement, but this war took him from us.

His fiance said, and I am quoting in part here: I am going to make sure people know about his service—that he went over there to fight for his country and that he went over to serve. So we remember him.

Two more before I conclude. SSG Jeremy R. Horton from Erie, PA, died on May 21, 2004. His tour was extended. He was a 24-year-old Pennsylvanian. His tour was extended. He joined the Army right out of high school, hoping to get money for college. This is what his uncle said about him: He certainly loved his family, and he loved his country, and he loved the military. It was what he wanted to do. We need more like him.

No one could have said it better than that. We do need more people like him, like Jeremy. He is survived by his wife Christie, whom he married shortly after joining the Army.

I will do one more because I know we are short on time. SSG Ryan S. Ostrom, from Liberty, PA. He was at one point in his life a baseball coach. One of his players quoted the story about his life: He was a good leader and a good person to look up to. And he had that special smile we used to see in the locker room.

That is what they said about him as a coach. This man, Mr. Ostrom, was 25 years old when he died. Here is what another member of the military said, SSG Craig Stevens said about Ryan: He was a soldier you could give a task to and know it would get done. You could just look at him and know he was a leader.

Ryan would have started his senior year at Mansfield University this fall, meaning then the fall of 2005. He is survived by his father Scott and his mother Donna.

I will add one more. We have a minute. Our last biographical sketch is LCpl Nicholas B. Morrison, from Carlisle, PA. He died August 13, 2004. He was 23 years old.

He joined the Marine Corps 16 months ago and planned to become a state trooper in the State of Pennsylvania. He was a 2000 graduate of Big Spring High School, where he was a linebacker on the football team.

I hope we can all remember his family as well today.

Here is what one of his friends said: He was the glue. When he would come home, we would all make an effort to go out. He would make us laugh about stories from when we were growing up.

And on and on and on, stories such as that from so many families and so many communities across our Commonwealth and indeed our country.

I conclude with this thought: There are a lot of great lines in ''America the Beautiful.'' We could spend a lot of time talking about each one of them. One of those lines, when we talk about ''America the Beautiful,'' says: ''Oh beautiful for patriot dream that sees beyond the years.''

That is what a lot of these soldiers did. They not only volunteered for service knowing they could lose their lives, knowing they had to make a full commitment of their life and their time and their family's time, but they had dreams, dreams of serving their country and hopefully dreams to go beyond that.

But they were patriots and they had dreams and it is those dreams we remember and celebrate today. It is those dreams that go well beyond the years we see before us.

So we remember these troops today and as always we ask God's blessings on their lives, those who gave, as Abraham Lincoln said, the last full measure of devotion to their country.

We remember them today and their families. May God bless them.

Mr. President, I ask unanimous consent that newspaper accounts about these soldiers be printed in the RECORD.

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

PFC. ADAM J. CHITJIAN, SOMERTON, PA—DIED OCTOBER 24, 2007

SOMERTON NATIVE KILLED IN NORTHERN IRAQ (PHILADELPHIA INQUIRER), OCTOBER 27, 2007

A Philadelphia native due to end his second tour of duty in Iraq next month died Thursday of injuries sustained from enemy small-arms fire in Balad, northern Iraq.

Pfc. Adam J. Chitjian, 39, raised in Somerton, had joined the Army 4 years ago in response to 9/11, his older brother, Martin, said last night.

When it came to his country's defense, ''he wanted to act, rather than just talk,'' Martin, 41, of Buckingham, Bucks County, said.

A stocky 5-foot-11-inches, Adam Chitjian ''appeared bigger than he was,'' Martin said. To his brother, Adam seemed invincible.

''I would have bet my life he would have come back without a scratch,'' said Martin, a lawyer, who was struggling last night to grasp his brother's death. ''I don't really believe it happened.''

Their father, Martin, who lives in Furlong, and sister, Kara Spatola of Warrington, were too distraught to talk, Martin said. Their mother, Edith, died 10 years ago of cancer.

Chitjian was assigned to Third Battalion, Eighth Cavalry Regiment, Third Brigade Combat Team, First Cavalry Division based in Fort Hood, Texas.

It was in Texas where he met Shirley, who would become his wife. They married in the summer of 2006, after he returned from his first tour of duty in Iraq. The couple have no children.

Martin said his brother had been a commercial painter since graduating from Northeast Philadelphia's George Washington High School. He had talked of possibly joining a private security firm at the end of his duty in Iraq.

SGT. NICHOLAS A. TOMKO, PITTSBURGH, PA—DIED NOVEMBER 9, 2003

PITTSBURGH-AREA SOLDIER KILLED IN ATTACK IN IRAQ (ASSOCIATED PRESS, NOVEMBER 11, 2003)

PITTSBURGH.—An Army reservist from Pennsylvania who was due home in a little more than a month was killed Nov. 9 when a convoy he was escorting in Baghdad was attacked, Defense Department officials and his father said.

Sgt. Nicholas A. Tomko, a 24-year-old in the 307th Military Police Company out of New Kensington, Pa., was fatally shot in the shoulder and chest when the Humvee he was riding in as a door gunner was attacked by mortar and small arms fire, according to his father, Jack Tomko, and his fiancee, Jessica Baillie.

''He was a great kid, brave as hell, he didn't take no chances, he knew his stuff,'' said Jack Tomko, 58, of Evans City. ''I guess that day he didn't know what was going on or something.''

Tomko and Baillie said Nicholas Tomko was scheduled to leave Iraq in 2 weeks and arrive home on Dec. 22.

Baillie, of Shaler, the mother of their 2-year-old son Ethan, said she had talked to Nicholas Tomko on Saturday and was stunned by his death.

''I didn't think it was going to happen, you know, he had too much to come home to,'' Baillie told Pittsburgh television station WTAE. ''We had too much of a future.''

Nicholas Tomko, who was working as an armored car driver near Pittsburgh, joined the Army Reserves 3 years ago hoping to get a head start on a career in law enforcement, his father said. He was stationed in Bosnia for 6 months and had 2 months off before his unit was reactivated in February.

Jack Tomko, who served in the Marine Corps from 1966 to 1970, said he and his son didn't talk about the war or conditions in Iraq.

''I told him you don't tell me what is going on, you tell me when you get home,'' Tomko said.

Tomko described his son as an average boy growing up and remembered how he would occasionally get into food fights with a friend, placing overripe apples and tomatoes on sticks and hitting each other. But he said his son never got into serious trouble.

Baillie said she thought their son was too young to tell about his father's death.

''I'm gonna make sure that Ethan knows that is dad is a hero and that he did, you know, what he wanted to do and that he went over there to fight for his country,'' Baillie said. ''There is nothing negative you can say about that.''

STAFF SGT. JEREMY R. HORTON, ERIE, PA—DIED MAY 21, 2004

PENNSYLVANIA SOLDIER KILLED IN IRAQ (ASSOCIATED PRESS, MAY 2004)

PITTSBURGH.—A soldier from Erie, Penn., whose tour was extended last year, was killed in Iraq by a roadside bomb, according to his family.

Staff Sgt. Jeremy R. Horton, 24, died Friday near Iskandariyah, Iraq. Defense officials did not release further details, but relatives said Horton apparently was killed when his convoy was stopped for another roadside bomb.

Horton reportedly stepped from his vehicle and a second bomb went off, killing him and wounding three other soldiers, said his uncle, Rich Wittenburg, 54, of Erie. Horton died from shrapnel in his head, Wittenburg said.

Horton joined the Army right out of high school, hoping to get money for college, but ended up finding his place in the military. He was a member of Company B, 2nd Battalion, 6th Infantry Regiment, 1st Armored Division, based in Baumholder, Germany.

''He certainly loved his family and loved his country and loved being in the military. It was what he wanted to do. We need more like him,'' Wittenburg said.

Horton played both the saxophone and drums in high school and played in bands where he was stationed, his uncle said.

Horton is survived by his wife, Christie, whom he married shortly after joining the Army.

A memorial service was planned for Thursday in Germany and he will be buried June 2 in Erie, his uncle said.

STAFF SGT. RYAN S. OSTROM LIBERTY, PA—DIED AUGUST 9, 2005

STUDENT REMEMBERS PA. NATIONAL GUARD SOLDIER AS A MENTOR (ASSOCIATED PRESS, AUGUST 2005)

When Broc Repard was playing junior high basketball, Ryan S. Ostrom was his coach. But he was so much more.

''He taught people skills as much as he taught basketball,'' said Repard.

''He was a good leader and a good person to look up to. And he had that special smile we used to see in the locker room.''

Ostrom, 25, of Liberty, Pa., died Aug. 9 from small-arms fire in Habbaniya. He was assigned to Williamsport.

''He was a soldier you could give a task to and know it would get done. You could just look at him and know he was a leader,'' said SSG Craig Stevens.

Ostrom captained his high school's soccer and basketball teams and won a Pennsylvania Interscholastic Athletic Association sportsmanship award. He was a Youth Leader of Tomorrow candidate.

A 1999 high school graduate, Ostrom would have started his senior year at Mansfield University this fall, studying chemistry. Professor Scott Davis said Ostrom was one of the few science students who aspired to be a teacher.

''He would have been a good one,'' Davis said.

He is survived by his father, Scott Ostrom, mother, Donna Ostrom, and stepmother, Anice Ostrom.

LANCE CPL. NICHOLAS B. MORRISON, CARLISLE, PA—DIED AUGUST 13, 2004

PENNSYLVANIA MARINE KILLED IN IRAQ (ASSOCIATED PRESS, AUGUST 2004)

CARLISLE, PA.—A North Carolina-based Marine killed in Iraq complained about the food and the heat, but nothing else, his mother said.

LCpl Nicholas B. Morrison, 23, Carlisle, Pa., died Friday during hostile action in Iraq's Anbar province.

He joined the Marine Corps 16 months ago and planned to eventually become a state trooper, said his mother, Peggy Morrison, of West Pennsboro Township in Cumberland County.

''He cared about what he was doing,'' Peggy Morrison said. ''He believed in the war. He was afraid, but not afraid to do what was right.''

Morrison died when an explosive hit the Humvee in which he was riding, his mother said.

''They were on a scouting mission or something,'' said Morrison, adding that she expected more detailed information from military officials Monday.

Morrison was assigned to the 2nd Battalion, 2nd Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force at Camp Lejeune, N.C.

''We sent him a digital camera and he'd take pictures during a gunfight,'' Peggy Morrison said. ''We'd holler and he'd say, 'It's not that bad.' I think he tried to downplay it.''

Morrison was a 2000 graduate of Big Spring High School, where he was a linebacker on the football team and had many close friends, said schoolmate Matt Swanger, 22.

''He was the glue. When he would come home we would all make an effort to go out,'' Swanger said. ''He would still make us laugh about stories from when we were growing up. I was really looking forward to when he came home.''

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Florida.

Mr. NELSON of Florida. I ask unanimous consent to speak as in morning business.

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

Mr. NELSON of Florida. Let me say to Senator CASEY before he leaves the floor, the kind of speech he has made is the kind of speech none of us wants to make. It happens with each of us in each of our States. As the Senator from Pennsylvania was speaking, it caused me to reflect back that one of the more painful duties as an active-duty U.S. Army captain in the late 1960s was that of going and informing the family members, next of kin, about the loss of their loved one. That was during Vietnam. That was usually the occasion for the notification of next of kin. How difficult a task it is personally to do it because you realize how difficult it is for the family to receive that news. I thank the Senator from Pennsylvania for his obviously heartfelt comments about the Pennsylvania citizens who have fallen in combat and for his words and expression of appreciation for the patriotism of these young men and women.

CORAL REEF ECOSYSTEMS

I rise today to speak about another subject, the fact that two of the committees on which I sit have recently reported out important legislation to protect delicate coral reefs off the coast of our country. It is called the Coral Reef Conservation Amendments Act and the Tropical Forest Conservation Act.

Mr. President, 84 percent of all of the coral reef ecosystems in the country happen to be off the coast of Florida. It is important that we protect them because—and a lot of people don't realize this—they protect us. Coral reefs are fragile, slow-going, slow-growing, and long-lived ecosystems. Corals themselves are easily damaged and they are vulnerable to severe weather, ship damage, pollution, nutrification, and changes in temperature. Even with all of those environmental and physical challenges, coral reef ecosystems provide invaluable services to us. They protect our shorelines. They enhance our economies because of all of the wonderful exploration in dive shops. They shelter fisheries, and they are a very valuable ecosystem for a variety of marine life.

Beyond the current ecosystem services and known capacities, coral reefs also hold the promise for new discoveries, new and beneficial drugs coming from the coral reefs, improved understanding of disease and, even now, understanding of new species. As we reauthorize in this legislation the Tropical Forest Conservation Act, we are going to take an important and significant new step to preserving and restoring global natural resources and marine systems. This reauthorization will continue our efforts to preserve the world's forests, the coral reefs, and now the coastal marine ecosystems. This act will create an invaluable debt for nature exchange that benefits both the global economy and the global environment.

We have an aquarium in Tampa, FL that is offering its expertise in coral conservation and coral health certification in these international efforts that are ongoing. Developing countries are now participating in this debt relief initiative, and it will greatly benefit from the research that is going on at the Florida aquarium.

The legislation that is coming forth is a reauthorization that strengthens the authority of the Secretary of Commerce. It gives the Secretary the ability to address threats to coral reef ecosystems in U.S. waters. It expands NOAA's authority to respond to stranded and grounded vessels that threaten the coral reefs. The bill also allows for NOAA to negotiate agreements with coral reef research institutes such as the Institute at Nova Southeastern University in my State in the city of Fort Lauderdale. This bill also provides

mechanisms for the Government to recoup costs and damages from the responsible parties and then apply those funds to coral restoration efforts in damaged areas.

We have another potential devastation of coral reefs. Many of these reefs are right off the Florida Keys. It is an area of endangered, critical concern. There are these beautiful coral reefs that do all of these protections I talked about for the delicate keys: protection from storms, housing the fisheries, a place for research and development with regard to disease, and so forth. But let me tell you about a new destructive potential for the coral reefs. Remember, 84 percent of the Nation's coral reefs are in Florida. Since there is no treaty between Cuba and the United States with regard to the operation of the waters between the two, there have been exchanges between the Government of the United States and Cuba, through the facilities of the Swiss Embassy, an exchange of letters that has been going on for 20 years, designating a line halfway between Key West and Cuba, which is only 90 miles, or a line 45 miles off the coast of Cuba, which happens to be 45 miles off of Key West, as a line at which the jurisdiction of the waters in each respective part is the jurisdiction of that country.

Here is the problem. Cuba, combined with foreign oil companies, now including PDVSA, the oil company of Venezuela, is starting to explore for oil out in the waters off of Cuba. There has been some exploration already near the shore. But unless that agreement is modified, the Venezuelan oil company could be drilling for oil 45 miles off of Key West. Right off of Key West is the gulf stream. The gulf stream comes up through the west side of Cuba and the Yucatan peninsula, goes into the Gulf of Mexico, turns eastward and southward and comes down below Key West, between Key West and Cuba, and then follows the keys northward, hugs the coast of Florida only a couple of miles off the coast, all the way up to the middle of Florida at Fort Pierce, and then turns and leaves the coast of Florida going across the Atlantic and goes all the way over to northern Europe. If we don't call back this letter that most recently the Bush White House has sent to Cuba to ratify the agreement, which is done every 2 years, it gives perfect license for the Castro government to go in and drill. If there is an oil spill that is caught up in that gulf stream, you can see the potential for destruction of the delicate coral reefs all lining the Florida Keys and then right up the east coast of the State of Florida.

I have written to the President today asking him to recall the letter. The letter has been delivered by the State Department to the Swiss Embassy, but it has not been responded to by the Government of Cuba. It is not too late to withdraw that letter from the United States Government setting that boundary, and instead a new letter should be sent, perhaps with regard to what this initially started a couple of decades ago, on the fishing rights of each country, but one that would exempt out the rights of Cuba to drill in such a dangerous area. At least this ought to be an issue that is negotiated to keep the oil drilling away from the gulf stream which could damage these very coral reefs which I have been talking about in this act, this legislative act which has come out of the committee on which the Presiding Officer and I serve. It is not too late, if the Bush administration will do this. This happened 2 years ago and the Bush administration ignored the calls. But in the last 2 years, it has become much more apparent that oil companies sometimes that may not be safe in their drilling practices are in fact going to drill. The United States needs to have a say in those drilling operations not being out there close to the gulf stream which is only 30 or 40 miles off of the city of Key West which is at the lower end of the Florida Keys.

I come here happily to embrace this legislation protecting coral reefs, but I come here with an urgent message asking the White House to protect our coral reefs by withdrawing this letter sent to the Castro government of Cuba.

I yield the floor.

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

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

Mr. REID. Madam President, there has been a lot of progress made on this Indian health bill that is now before the Senate. A number of amendments have been filed. The staff are negotiating further provisions and discussing a list of amendments for consideration when we return to the bill.

I extend my appreciation to Senator DORGAN and Senator MURKOWSKI, the chairman and ranking member, for their leadership on the floor.

Many compromises have been made to accommodate my Republican colleagues—on Federal Torts Claims Act coverage of traditional health care practitioners, on urban Indian programs, and on the need for an Assistant Secretary of Indian Health. We even accommodated our colleagues when we learned of their midweek retreat, which has interrupted debate time on this important bill.

The caucuses are discussing some final issues, and I will be developing a list of amendments that we should consider relating to this legislation. I hope these conversations continue so we find a way to complete the bill in a timely and efficient manner.

As an original cosponsor of the Indian health bill, I am committed to seeing an Indian health bill signed into law and will continue to work with Senator DORGAN, Senator MURKOWSKI, and my Republican counterpart to complete this legislation as soon as possible.

Mr. FEINGOLD. Madam President, I am pleased to support the Indian Health Care Improvement Act Amendments of 2007. This bill is long overdue, and I hope that we in the Senate can ensure this bill's quick passage.

There are significant unmet needs in Indian Country throughout this Nation, and addressing the unmet health care needs ranks as one of the most significant issues that we must address. The Federal Government has a well-established trust responsibility with regard to American Indian affairs, and this trust responsibility extends to providing good health care to communities throughout Indian Country.

I am impressed with the bipartisan work that Senator DORGAN and the Senate Indian Affairs Committee have put into moving this bill forward, and I commend the committee for its dedication to significant consultation with Indian Country in drafting and negotiating this bill. Because of the strong consultation with individual tribes and collective organizations like the National Tribal Steering Committee and the National Indian Health Board, the Senate Indian Affairs Committee has put together a comprehensive reform bill that will help improve the health care services available to American Indians around the country.

This bill has the support of tribal governments throughout the Nation, including the 11 federally recognized tribes in my State of Wisconsin. I have heard from a number of constituents in Wisconsin about the need to pass this important piece of legislation and the improvements that the legislation will make to various Indian Health Service programs including clinical programs, on the various reservations throughout the State and the urban Indian program in the city of Milwaukee.

Health care is consistently the No. 1 issue that I hear about all over my home State of Wisconsin. When I hold my annual townhall meetings across the State, many people come to tell me about problems with our overall health care system, and data shows us that these problems are often most acutely felt in Indian Country. Lack of access to good health care is a problem that disproportionately affects American Indians throughout the United States. According to the Indian Health Service, American Indians and Alaska Natives are 200 percent more likely to die from diabetes, more than 500 percent more likely to die from alcoholism, and approximately 500 percent more likely to die from tuberculosis.

I was disappointed to hear one of my colleagues say yesterday on the floor that American lives do not depend on whether we pass the Indian health care bill by the end of the month. The staggering health statistics I cited earlier show just how imperative it is that we

pass this legislation, which is long overdue. These statistics also help illustrate the vast amount of work that needs to be done to improve the quality of health care in American Indian communities. This piece of legislation takes an important first step toward addressing these health care disparities through the many reforms it makes to Indian health care programs. Contrary to what my colleague asserted yesterday, American lives do depend on this legislation. Modernizing Indian Health Services programs through this legislation will help to address the diabetes and suicide crises that exist on reservations—just two examples of the many health care issues that impact the daily lives of American Indians across the country.

Reauthorization of this bill will help encourage health care providers to practice at facilities in Indian Country and encourage American Indians to enter the health care profession and serve their communities. Recruiting talented and dedicated professionals to serve in IHS facilities, whether urban or rural, is a key challenge facing many tribal communities in Wisconsin and around the country. I hope these provisions will help bring additional dedicated doctors, nurses, and other health care professionals to our tribal populations.

This bill also reauthorizes programs that assist urban Indian organizations with providing health care to American Indians living in urban centers around the country. The Urban Indian Health Program represents a tiny fraction of the Indian Health Services budget, but the small amount of resources given to the urban programs provide critical health services to those Indians living in urban areas. Contrary to what some people may think, the majority of American Indians now live in urban areas around the country, including two urban areas in my State—Milwaukee and Green Bay. Throughout our Nation's history, some American Indians came to urban centers voluntarily, but many were forcibly sent to urban areas as a result of wrongheaded Federal Indian policy in the 1950s and 1960s and have since stayed in urban areas and planted roots in these communities.

As a result of this movement to urban centers, Congress created the urban Indian program in the late 1970s to address the growing urban Indian population around the country. The Federal Government's responsibility to American Indians does not end simply because some American Indians left their ancestral lands and moved to urban locations—particularly when some of them had little choice in the matter.

While this legislation takes important steps toward improving urban Indian health care programs, we need to do much more to support these urban programs, including fighting for increased appropriations. I have been disappointed that the President has proposed zeroing out the urban Indian program in past budgets, and I fear that this year's upcoming budget will be no different. As in years past, I will join with my colleagues in efforts to restore funding for urban Indian programs to the Federal budget, and I hope this year we can also provide a much needed boost in funding for the urban Indian programs.

While this bill is a good first step towards reforming and improving access to health care in Indian Country, I also look forward to working with my colleagues to examine better ways to address the disparities that exist in the funding allocated to various IHS regions, including the Bemidji region, which covers Wisconsin, Minnesota, Michigan, Indiana, and Illinois. According to the latest available data compiled by the Great Lakes Inter-Tribal Epidemiology Center, the Bemidji Indian Health service area has lower funding rates than other Indian Health Service areas around the country. Even though the Bemidji region's funding rates are lower than other areas, the region has higher rates of heart disease and cancer than other regions and has the second worst diabetes rate in the IHS system. Not only do we need to provide more funding for all IHS regions, we also need to better address disparities that exist within the system, and I look forward to working with my colleagues in the coming months to address those disparities.

This bill is a solid first step toward improving access to health care in Indian Country. Unfortunately, the Senate was not able to finish work on this important bill before we had to move to debate another matter. I understand the majority leader has made a commitment to return to the Indian health care bill after we finish that other debate, and I look forward to working with my colleagues to pass the American Indian Health Care Improvement Act Amendments of 2007 in the near future. We need to move forward on this critical bill, and I urge all my colleagues, whether Republican or Democrat, to work together quickly to ensure its swift passage.

Indian Country has made many compromises in order to move this bill forward, and passage of this bill is long overdue. This bill takes important steps toward addressing some of the health care needs facing American Indian communities around the country, and I look forward to working with my colleagues to build on this legislation in the coming months and years. I also hope that we can continue to work together in a bipartisan way to pass the reauthorization of the Native American Housing and Self-Determination Act, work on legislation to address the education needs of American Indian youth, and address other legislative areas in order to help ensure stronger futures for American Indians throughout the country.

Mr. ENZI. Madam President, I rise in support of renewing and reinvigorating the Indian healthcare programs. For too long, we have neglected our duty to review this program and ensure that it continues to efficiently deliver high quality health care. As a part of that effort, last Congress Senator MCCAIN, Senator DORGAN, Senator MURKOWSKI, and I introduced comprehensive legislation to do just that. I am pleased that a great portion of the bill we are discussing today includes provisions from that bill, S. 4122.

In crafting that legislation last Congress, we kept in mind the 80–20 rule. Eighty percent of the time we were going to agree on a topic. It is only 20 percent that we are going to disagree. Therefore, to gain broad support, we focused on the 80 percent to ensure that it was strong, bipartisan legislation.

However, there are a few ways in which the bill before us deviates from the language in S. 4122. Sometimes, those changes are improvements as we all review the language again. Unfortunately, some issues still remain.

Those issues include Federal liability coverage for traditional healthcare practices. If we don't correct this, the Federal Government could be telling Americans how to practice their own religious beliefs. In addition, we need to more fully understand the appropriate role for providing services to urban Indians. I do think there is middle ground, or a third way—as I like to call it—to be found. In addition, there must be an appropriate offset to the legislation. Given the pay-go rules in both Chambers, in addition to our own Senate procedural hurdles, it is necessary and fiscally appropriate to have a responsible offset.

I have also heard from my colleagues that there are at least two outstanding issues within the Finance Committee's title of this legislation. I hope those can also be discussed and resolved. Specifically, the concerns center around the elimination of Medicaid copays and removal of particular citizenship requirements.

As the optimist and the Senator advocating for the ''third way,'' I am hopeful that we all can continue discussing these issues and come to an agreement as to how we move forward. Individuals depending on the Indian Health Services for their health care deserve no less.

Mr. WEBB. Madam President, the Senate is in the midst of an important debate to extend and improve health care to our Nation's federally recognized Indian tribes. I support the Indian Health Care Improvement Act and I commend all those, including the distinguished chairman, Senator DORGAN, for their work on it.

As we work to extend health care to more Native Americans, some of our oldest and most historically significant Indian tribes will be left outside the process, ineligible to participate in either the health care services or other programs authorized by the Federal Government.

I bring to your attention my strong support of a bill passed last year by the

U.S. House of Representatives, which would grant Federal recognition to six Native American tribes from the Commonwealth of Virginia. That bill is the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, H.R. 1294.

Once the Senate passes that bill and the President signs it into law, these six federally recognized tribes would become eligible for the benefits conferred under the Indian Health Care Improvement Act, which the Senate currently is debating. I hope that the Senate will pass the Indian Health Care Improvement Act this week. Just as importantly, I hope that during this session of Congress, the Senate will pass the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, thereby bestowing Federal benefits to these six tribes that have waited over 15 years for recognition.

The six tribes affected by the Federal Recognition Act are (1) the Chickahominy Tribe; (2) the Chickahominy Indian Tribe—Eastern Division; (3) the Upper Mattaponi Tribe; (4) the Rappahannock Tribe, Inc.; (5) the Monacan Indian Nation; and (6) the Nansemond Indian Tribe.

All six tribes included in the Federal Recognition Act have attempted to gain formal recognition through the Bureau of Indian Affairs, BIA. A lack of resources, coupled with unclear agency guidelines, have contributed to a backlog that currently exists at the BIA. Some applications for recognition can take up to 20 years.

Virginia's history and policies create barriers for Virginia's Native American Tribes to meet the BIA criteria for Federal recognition. Many Western tribes experienced Government neglect during the 20th century, but Virginia's story is different. Virginia's tribes were specifically targeted by unique policies.

Virginia was the first State to pass antimiscegenation laws in 1691, which were not eliminated until 1967.

Virginia's Bureau of Vital Statistics went so far as changing race records on many birth, death and marriage certificates. The elimination of racial identity records had a harmful impact on Virginia's tribes in the late 1990s, when they began seeking Federal recognition.

Moreover, many Virginia counties suffered tremendous loss of their early records during the intense military activity that occurred during the Civil War.

After meeting with leaders of Virginia's Indian tribes and months of thorough investigation of the facts, I concluded that legislative action is needed for recognition of Virginia's tribes. Congressional hearings and reports over the last several Congresses demonstrate the ancestry and status of these tribes. I have come to the conclusion that this recognition is justified based on principles of dignity and fairness. I have spent several months examining this issue in great detail, including the rich history and culture of Virginia's tribes. My staff and I asked a number of tough questions, and great care and deliberation were put into arriving at this conclusion.

Last year, we celebrated the 400th anniversary of Jamestown America's first colony. After 400 years since the founding of Jamestown, these six tribes deserve to join our Nation's other 562 federally recognized tribes.

As I mentioned, the House overwhelming passed the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, with bipartisan support. Virginia Governor Tim Kaine and the Virginia legislature support Federal recognition for these tribes. I look forward to working with my colleagues in the Senate, especially those on the Indian Affairs Committee, to push for passage of the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act.

At a time when we are debating how to effectively promote Indian health care, it is important that we grant these six Virginia tribes the access to these essential Federal health programs.

FISA AMENDMENTS ACT OF 2007

Mr. REID. Madam President, I call for the regular order.

The PRESIDING OFFICER. The clerk will report the pending business by title.

The assistant legislative clerk read as follows:

A bill (S. 2248) to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Select Committee on Intelligence and the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2007'' or the ''FISA Amendments Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SEC. 101. TARGETING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding after title VI the following new title:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''SEC. 701. DEFINITIONS.

''In this title:

''(1) IN GENERAL.—The terms 'agent of a foreign power', 'Attorney General', 'contents', 'electronic surveillance', 'foreign intelligence information', 'foreign power', 'minimization procedures', 'person', 'United States', and 'United States person' shall have the meanings given such terms in section 101.

''(2) ADDITIONAL DEFINITIONS.—

''(A) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(i) the Select Committee on Intelligence of the Senate; and

''(ii) the Permanent Select Committee on Intelligence of the House of Representatives.

''(B) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established by section 103(a).

''(C) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The terms 'Foreign Intelligence Surveillance Court of Review' and 'Court of Review' mean the court established by section 103(b).

''(D) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(i) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(ii) a provider of electronic communications service, as that term is defined in section 2510 of title 18, United States Code;

''(iii) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(iv) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

''(v) an officer, employee, or agent of an entity described in clause (i), (ii), (iii), or (iv).

''(E) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''SEC. 702. PROCEDURES FOR ACQUIRING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

''(a) AUTHORIZATION.—Notwithstanding any other provision of law, including title I, the Attorney General and the Director of National Intelligence may authorize jointly, for periods of up to 1 year, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

''(b) LIMITATIONS.—An acquisition authorized under subsection (a)—

''(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

''(2) may not intentionally target a person reasonably believed to be outside the United States if a significant purpose of such acquisition is to acquire the communications of a specific person reasonably believed to be located in

the United States, except in accordance with title I; and

''(3) shall be conducted in a manner consistent with the fourth amendment to the Constitution of the United States.

''(c) UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES.—

''(1) ACQUISITION INSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—An acquisition authorized under subsection (a) that constitutes electronic surveillance and occurs inside the United States may not intentionally target a United States person reasonably believed to be outside the United States, except in accordance with the procedures under title I.

''(2) ACQUISITION OUTSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—

''(A) IN GENERAL.—An acquisition by an electronic, mechanical, or other surveillance device outside the United States may not intentionally target a United States person reasonably believed to be outside the United States to acquire the contents of a wire or radio communication sent by or intended to be received by that United States person under circumstances in which a person has reasonable expectation of privacy and a warrant would be required for law enforcement purposes if the technique were used inside the United States unless—

''(i) the Foreign Intelligence Surveillance Court has entered an order approving electronic surveillance of that United States person under section 105, or in the case of an emergency situation, electronic surveillance against the target is being conducted in a manner consistent with title I; or

''(ii)(I) the Foreign Intelligence Surveillance Court has entered a order under subparagraph (B) that there is probable cause to believe that the United States person is a foreign power or an agent of a foreign power;

''(II) the Attorney General has established minimization procedures for that acquisition that meet the definition of minimization procedures under section 101(h); and

''(III) the dissemination provisions of the minimization procedures described in subclause (II) have been approved under subparagraph (C).

''(B) PROBABLE CAUSE DETERMINATION; REVIEW.—

''(i) IN GENERAL.—The Attorney General may submit to the Foreign Intelligence Surveillance Court the determination of the Attorney General, together with any supporting affidavits, that a United States person who is outside the United States is a foreign power or an agent of a foreign power.

''(ii) REVIEW.—The Court shall review, any probable cause determination submitted by the Attorney General under this subparagraph. The review under this clause shall be limited to whether, on the basis of the facts submitted by the Attorney General, there is probable cause to believe that the United States person who is outside the United States is a foreign power or an agent of a foreign power.

''(iii) ORDER.—If the Court, after conducting a review under clause (ii), determines that there is probable cause to believe that the United States person is a foreign power or an agent of a foreign power, the court shall issue an order approving the acquisition. An order under this clause shall be effective for 90 days, and may be renewed for additional 90-day periods.

''(iv) NO PROBABLE CAUSE.—If the Court, after conducting a review under clause (ii), determines that there is not probable cause to believe that a United States person is a foreign power or an agent of a foreign power, it shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause to the Foreign Intelligence Surveillance Court of Review.

''(C) REVIEW OF MINIMIZATION PROCEDURES.—

''(i) IN GENERAL.—The Foreign Intelligence Surveillance Court shall review the minimization procedures applicable to dissemination of information obtained through an acquisition authorized under subparagraph (A) to assess whether such procedures meet the definition of minimization procedures under section 101(h) with respect to dissemination.

''(ii) REVIEW.—The Court shall issue an order approving the procedures applicable to dissemination as submitted or as modified to comply with section 101(h).

''(iii) PROCEDURES DO NOT MEET DEFINITION.—If the Court determines that the procedures applicable to dissemination of information obtained through an acquisition authorized under subparagraph (A) do not meet the definition of minimization procedures under section 101(h) with respect to dissemination, it shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause to the Foreign Intelligence Surveillance Court of Review.

''(D) EMERGENCY PROCEDURES.—

''(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, the Attorney General may authorize the emergency employment of an acquisition under subparagraph (A) if the Attorney General—

''(I) reasonably determines that—

''(aa) an emergency situation exists with respect to the employment of an acquisition under subparagraph (A) before a determination of probable cause can with due diligence be obtained; and

''(bb) the factual basis for issuance of a determination under subparagraph (B) to approve such an acquisition exists;

''(II) informs a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency acquisition;

''(III) submits a request in accordance with subparagraph (B) to the judge notified under subclause (II) as soon as practicable, but later than 72 hours after the Attorney General authorizes such an acquisition; and

''(IV) requires that minimization procedures meeting the definition of minimization procedures under section 101(h) be followed.

''(ii) TERMINATION.—In the absence of a judicial determination finding probable cause to believe that the United States person that is the subject of an emergency employment of an acquisition under clause (i) is a foreign power or an agent of a foreign power, the emergency employment of an acquisition under clause (i) shall terminate when the information sought is obtained, when the request for a determination is denied, or after the expiration of 72 hours from the time of authorization by the Attorney General, whichever is earliest.

''(iii) USE OF INFORMATION.—If the Court determines that there is not probable cause to believe that a United States is a foreign power or an agent of a foreign power in response to a request for a determination under clause (i)(III), or in any other case where the emergency employment of an acquisition under this subparagraph is terminated and no determination finding probable cause is issued, no information obtained or evidence derived from such acquisition shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(3) PROCEDURES.—

''(A) SUBMITTAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—Not later than 30 days after the date of the enactment of the FISA Amendments Act of 2007, the Attorney General shall submit to the Foreign Intelligence Surveillance Court the procedures to be used in determining whether a target reasonably believed to be outside the United States is a United States person.

''(B) REVIEW BY FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall review, the procedures submitted under subparagraph (A), and shall approve those procedures if they are reasonably designed to determine whether a target reasonably believed to be outside the United States is a United States person. If the Court concludes otherwise, the Court shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal such an order to the Foreign Intelligence Surveillance Court of Review.

''(C) USE IN TARGETING.—Any targeting of persons reasonably believed to be located outside the United States shall use the procedures approved by the Foreign Intelligence Surveillance Court under subparagraph (B). Any new or amended procedures may be used with respect to the targeting of persons reasonably believed to be located outside the United States upon approval of the new or amended procedures by the Court, which shall review such procedures under paragraph (B).

''(4) TRANSITION PROCEDURES CONCERNING THE TARGETING OF UNITED STATES PERSONS OVERSEAS.—Any authorization in effect on the date of enactment of the FISA Amendments Act of 2007 under section 2.5 of Executive Order 12333 to intentionally target a United States person reasonably believed to be located outside the United States, to acquire the contents of a wire or radio communication sent by or intended to be received by that United States person, shall remain in effect, and shall constitute a sufficient basis for conducting such an acquisition of a United States person located outside the United States, until that authorization expires or 90 days after the date of enactment of the FISA Amendments Act of 2007, whichever is earlier.

''(d) CONDUCT OF ACQUISITION.—An acquisition authorized under subsection (a) may be conducted only in accordance with—

''(1) a certification made by the Attorney General and the Director of National Intelligence pursuant to subsection (g); and

''(2) the targeting and minimization procedures required pursuant to subsections (e) and (f).

''(e) TARGETING PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt targeting procedures that are reasonably designed to ensure that any acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States, and that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States.

''(2) JUDICIAL REVIEW.—The procedures referred to in paragraph (1) shall be subject to judicial review pursuant to subsection (i).

''(f) MINIMIZATION PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt, consistent with the requirements of section 101(h), minimization procedures for acquisitions authorized under subsection (a).

''(2) JUDICIAL REVIEW.—The minimization procedures required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(g) CERTIFICATION.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Subject to subparagraph (B), prior to the initiation of an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence shall provide, under oath, a written certification, as described in this subsection.

''(B) EXCEPTION.—If the Attorney General and the Director of National Intelligence determine that immediate action by the Government is required and time does not permit the preparation of a certification under this subsection prior to the initiation of an acquisition, the Attorney General and the Director of National Intelligence shall prepare such certification, including such determination, as soon as possible but in no event more than 168 hours after such determination is made.

''(2) REQUIREMENTS.—A certification made under this subsection shall—

''(A) attest that—

''(i) there are reasonable procedures in place for determining that the acquisition authorized under subsection (a) is targeted at persons reasonably believed to be located outside the United States and that such procedures have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(ii) the procedures referred to in clause (i) are consistent with the requirements of the fourth amendment to the Constitution of the United States and do not permit the intentional targeting of any person who is known at the time of acquisition to be located in the United States;

''(iii) the procedures referred to in clause (i) require that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States;

''(iv) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(v) the minimization procedures to be used with respect to such acquisition—

''(I) meet the definition of minimization procedures under section 101(h); and

''(II) have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(vi) the acquisition involves obtaining the foreign intelligence information from or with the assistance of an electronic communication service provider; and

''(vii) the acquisition is limited to communications to which at least 1 party is a specific individual target who is reasonably believed to be located outside of the United States, and a significant purpose of the acquisition of the communications of any target is to obtain foreign intelligence information; and

''(B) be supported, as appropriate, by the affidavit of any appropriate official in the area of national security who is—

''(i) appointed by the President, by and with the consent of the Senate; or

''(ii) the head of any element of the intelligence community.

''(3) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under subsection (a) will be directed or conducted.

''(4) SUBMISSION TO THE COURT.—The Attorney General shall transmit a copy of a certification made under this subsection, and any supporting affidavit, under seal to the Foreign Intelligence Surveillance Court as soon as possible, but in no event more than 5 days after such certification is made. Such certification shall be maintained under security measures adopted by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence.

''(5) REVIEW.—The certification required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(h) DIRECTIVES.—

''(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

''(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target; and

''(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

''(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance pursuant to paragraph (1).

''(3) RELEASE FROM LIABILITY.—Notwithstanding any other law, no cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

''(4) CHALLENGING OF DIRECTIVES.—

''(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider receiving a directive issued pursuant to paragraph (1) may challenge the directive by filing a petition with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign the petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that the directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with the directive. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under this paragraph shall remain in full effect.

''(5) ENFORCEMENT OF DIRECTIVES.—

''(A) ORDER TO COMPEL.—In the case of a failure to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel compliance with the directive with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition shall issue an order requiring the electronic communication service provider to comply with the directive if the judge finds that the directive was issued in accordance with paragraph (1), meets the requirements of this section, and is otherwise lawful. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this paragraph may be punished by the Court as contempt of court.

''(E) PROCESS.—Any process under this paragraph may be served in any judicial district in which the electronic communication service provider may be found.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of the decision issued pursuant to paragraph (4) or (5) not later than 7 days after the issuance of such decision. The Court of Review shall have jurisdiction to consider such a petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(i) JUDICIAL REVIEW.—

''(1) IN GENERAL.—

''(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review any certification required by subsection (d) or targeting and minimization procedures adopted pursuant to subsections (e) and (f).

''(B) SUBMISSION TO THE COURT.—The Attorney General shall submit to the Court any such certification or procedure, or amendment thereto, not later than 5 days after making or amending the certification or adopting or amending the procedures.

''(2) CERTIFICATIONS.—The Court shall review a certification provided under subsection (g) to determine whether the certification contains all the required elements.

''(3) TARGETING PROCEDURES.—The Court shall review the targeting procedures required by subsection (e) to assess whether the procedures are reasonably designed to ensure that the acquisition authorized under subsection (a) is limited to the targeting of persons reasonably believed to be located outside the United States, and are reasonably designed to ensure that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States.

''(4) MINIMIZATION PROCEDURES.—The Court shall review the minimization procedures required by subsection (f) to assess whether such procedures meet the definition of minimization procedures under section 101(h).

''(5) ORDERS.—

''(A) APPROVAL.—If the Court finds that a certification required by subsection (g) contains all of the required elements and that the targeting and minimization procedures required by subsections (e) and (f) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the continued use of the procedures for the acquisition authorized under subsection (a).

''(B) CORRECTION OF DEFICIENCIES.—

''(i) IN GENERAL.—If the Court finds that a certification required by subsection (g) does not contain all of the required elements, or that the procedures required by subsections (e) and (f) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the Court's order—

''(I) correct any deficiency identified by the Court's order not later than 30 days after the date the Court issues the order; or

''(II) cease the acquisition authorized under subsection (a).

''(ii) LIMITATION ON USE OF INFORMATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), no information obtained or evidence derived from an acquisition under clause (i)(I) shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(II) EXCEPTION.—If the Government corrects any deficiency identified by the Court's order under clause (i), the Court may permit the use or disclosure of information acquired before the date of the correction pursuant to such minimization procedures as the Court shall establish for purposes of this clause.

''(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of its orders under this subsection, the Court shall provide, simultaneously with the orders, for the record a written statement of its reasons.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government may appeal any order under this section to the Foreign Intelligence Surveillance Court of Review, which shall have jurisdiction to review such order. For any decision affirming, reversing, or modifying an order of the Foreign Intelligence Surveillance Court, the Court of Review shall provide for the record a written statement of its reasons.

''(B) STAY PENDING APPEAL.—The Government may move for a stay of any order of the Foreign Intelligence Surveillance Court under paragraph (5)(B)(i) pending review by the Court en banc or pending appeal to the Foreign Intelligence Surveillance Court of Review.

''(C) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(7) COMPLIANCE REVIEW.—The Court may review and assess compliance with the minimization procedures submitted to the Court pursuant to subsections (c) and (f) by reviewing the semiannual assessments submitted by the Attorney General and the Director of National Intelligence pursuant to subsection (l)(1) with respect to compliance with minimization procedures. In conducting a review under this paragraph, the Court may, to the extent necessary, require the Government to provide additional information regarding the acquisition, retention, or dissemination of information concerning United States persons during the course of an acquisition authorized under subsection (a).

''(8) REMEDIAL AUTHORITY.—The Foreign Intelligence Surveillance Court shall have authority to fashion remedies as necessary to enforce—

''(A) any order issued under this section; and

''(B) compliance with any such order.

''(j) JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

''(k) MAINTENANCE OF RECORDS.—

''(1) STANDARDS.—A record of a proceeding under this section, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(3) RETENTION OF RECORDS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.

''(l) OVERSIGHT.—

''(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the targeting and minimization procedures required by subsections (c), (e), and (f) and shall submit each such assessment to—

''(A) the Foreign Intelligence Surveillance Court; and

''(B) the congressional intelligence committees.

''(2) AGENCY ASSESSMENT.—The Inspectors General of the Department of Justice and of any element of the intelligence community authorized to acquire foreign intelligence information under subsection (a)—

''(A) are authorized to review the compliance of their agency or element with the targeting and minimization procedures required by subsections (c), (e), and (f);

''(B) with respect to acquisitions authorized under subsection (a), shall review the number of disseminated intelligence reports containing a reference to a United States person identity and the number of United States person identities subsequently disseminated by the element concerned in response to requests for identities that were not referred to by name or title in the original reporting;

''(C) with respect to acquisitions authorized under subsection (a), shall review the number of targets that were later determined to be located in the United States and the number of persons located in the United States whose communications were reviewed; and

''(D) shall provide each such review to—

''(i) the Attorney General;

''(ii) the Director of National Intelligence; and

''(iii) the congressional intelligence committees.

''(3) ANNUAL REVIEW.—

''(A) REQUIREMENT TO CONDUCT.—The head of an element of the intelligence community conducting an acquisition authorized under subsection (a) shall direct the element to conduct an annual review to determine whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition. The annual review shall provide, with respect to such acquisitions authorized under subsection (a)—

''(i) an accounting of the number of disseminated intelligence reports containing a reference to a United States person identity;

''(ii) an accounting of the number of United States person identities subsequently disseminated by that element in response to requests for identities that were not referred to by name or title in the original reporting; and

''(iii) the number of targets that were later determined to be located in the United States and the number of persons located in the United States whose communications were reviewed.

''(B) USE OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall use each such review to evaluate the adequacy of the minimization procedures utilized by such element or the application of the minimization procedures to a particular acquisition authorized under subsection (a).

''(C) PROVISION OF REVIEW TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall provide such review to the Foreign Intelligence Surveillance Court.

''(4) REPORTS TO CONGRESS.—

''(A) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning the implementation of this Act.

''(B) CONTENT.—Each report made under subparagraph (A) shall include—

''(i) any certifications made under subsection (g) during the reporting period;

''(ii) any directives issued under subsection (h) during the reporting period;

''(iii) the judicial review during the reporting period of any such certifications and targeting and minimization procedures utilized with respect to such acquisition, including a copy of any order or pleading in connection with such review that contains a significant legal interpretation of the provisions of this Act;

''(iv) any actions taken to challenge or enforce a directive under paragraphs (4) or (5) of subsections (h);

''(v) any compliance reviews conducted by the Department of Justice or the Office of the Director of National Intelligence of acquisitions authorized under subsection (a);

''(vi) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under subsection (h), including—

''(I) incidents of noncompliance by an element of the intelligence community with procedures adopted pursuant to subsections (c), (e), and (f); and

''(II) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issued a directive under subsection (h);

''(vii) any procedures implementing this section; and

''(viii) any annual review conducted pursuant to paragraph (3).

''SEC. 703. USE OF INFORMATION ACQUIRED UNDER SECTION 702.

''Information acquired from an acquisition conducted under section 702 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106, except for the purposes of subsection (j) of such section.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking the item relating to title VII;

(2) by striking the item relating to section 701; and

(3) by adding at the end the following:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''Sec. 701. Definitions.

''Sec. 702. Procedures for acquiring the communications of certain persons outside the United States.

''Sec. 703. Use of information acquired under section 702.''.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a)(2) and (b) shall cease to have effect on December 31, 2011.

(2) CONTINUING APPLICABILITY.—Section 702(h)(3) of the Foreign Intelligence Surveillance Act of 1978 (as amended by subsection (a)) shall remain in effect with respect to any directive issued pursuant to section 702(h) of that Act (as so amended) during the period such directive was in effect. The use of information acquired by an acquisition conducted under section 702 of that Act (as so amended) shall continue to be governed by the provisions of section 703 of that Act (as so amended).

SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED.

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

''STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED

''SEC. 112. (a) This Act shall be the exclusive means for targeting United States persons for the purpose of acquiring their communications or communications information for foreign intelligence purposes, whether such persons are inside the United States or outside the United States, except in cases where specific statutory authorization exists to obtain communications information without an order under this Act.

''(b) Chapters 119 and 121 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted.

''(c) Subsections (a) and (b) shall apply unless specific statutory authorization for electronic surveillance, other than as an amendment to this Act, is enacted. Such specific statutory authorization shall be the only exception to subsection (a) and (b).''.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 2511(2)(a) of title 18, United States Code, is amended by adding at the end the following:

''(iii) A certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information shall identify the specific provision of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) that provides an exception from providing a court order, and shall certify that the statutory requirements of such provision have been met.''.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.''.

(c) OFFENSE.—Section 109(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809(a)) is amended by striking ''authorized by statute'' each place it appears in such section and inserting ''authorized by this title or chapter 119, 121, or 206 of title 18, United States Code''.

SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT ORDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) INCLUSION OF CERTAIN ORDERS IN SEMI-ANNUAL REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by striking ''(not including orders)'' and inserting '', orders,''.

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following new subsection:

''(c) SUBMISSIONS TO CONGRESS.—The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

''(1) a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act, and any pleadings associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and

''(2) a copy of any such decision, order, or opinion, and the pleadings associated with such decision, order, or opinion, that was issued during the 5-year period ending on the date of the enactment of the FISA Amendments Act of 2007 and not previously submitted in a report under subsection (a).''.

SEC. 104. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (11);

(B) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(C) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation is unavailable—'';

(E) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking ''statement of'' and inserting ''summary statement of'';

(F) in paragraph (8), as redesignated by subparagraph (B) of this paragraph, by adding ''and'' at the end; and

(G) in paragraph (9), as redesignated by subparagraph (B) of this paragraph, by striking ''; and'' and inserting a period;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3) of this subsection, by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

SEC. 105. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (b), by striking ''(a)(3)'' and inserting ''(a)(2)'';

(3) in subsection (c)(1)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (F);

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(6) by amending subsection (e), as redesignated by paragraph (5) of this section, to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

''(C) informs, either personally or through a designee, a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

''(D) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not later than 168 hours after the Attorney General authorizes such surveillance.

''(2) If the Attorney General authorizes the emergency employment of electronic surveillance under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5) In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(6) The Attorney General shall assess compliance with the requirements of paragraph (5).''; and

(7) by adding at the end the following:

''(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, upon the request of the applicant, the judge shall also authorize the installation and use of pen registers and trap and trace devices, and direct the disclosure of the information set forth in section 402(d)(2).''.

SEC. 106. USE OF INFORMATION.

Subsection (i) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (8 U.S.C. 1806) is amended by striking ''radio communication'' and inserting ''communication''.

SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.

(a) APPLICATIONS.—Section 303 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1823) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(C) in paragraph (2), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (3)(C), as redesignated by subparagraph (B) of this paragraph, by inserting ''or is about to be'' before ''owned''; and

(E) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation is unavailable—''; and

(2) in subsection (d)(1)(A), by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

(b) ORDERS.—Section 304 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(2) by amending subsection (e) to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of a physical search if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of a physical search to obtain foreign intelligence information before an order authorizing such physical search can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such physical search exists;

''(C) informs, either personally or through a designee, a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency physical search; and

''(D) makes an application in accordance with this title to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 168 hours after the Attorney General authorizes such physical search.

''(2) If the Attorney General authorizes the emergency employment of a physical search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such physical search, the physical search shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5)(A) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the physical search, no information obtained or evidence derived from such physical search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such physical search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(B) The Attorney General shall assess compliance with the requirements of subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 304(a)(4), as redesignated by subsection (b) of this section, by striking ''303(a)(7)(E)'' and inserting ''303(a)(6)(E)''; and

(2) in section 305(k)(2), by striking ''303(a)(7)'' and inserting ''303(a)(6)''.

SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a)(2), by striking ''48 hours'' and inserting ''168 hours''; and

(2) in subsection (c)(1)(C), by striking ''48 hours'' and inserting ''168 hours''.

SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) DESIGNATION OF JUDGES.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by inserting ''at least'' before ''seven of the United States judicial circuits''.

(b) EN BANC AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a) of this section, is further amended—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) The court established under this subsection may, on its own initiative, or upon the request of the Government in any proceeding or a party under section 501(f) or paragraph (4) or (5) of section 702(h), hold a hearing or rehearing, en banc, when ordered by a majority of the judges that constitute such court upon a determination that—

''(i) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

''(ii) the proceeding involves a question of exceptional importance.

''(B) Any authority granted by this Act to a judge of the court established under this subsection may be exercised by the court en banc. When exercising such authority, the court en banc shall comply with any requirements of this Act on the exercise of such authority.

''(C) For purposes of this paragraph, the court en banc shall consist of all judges who constitute the court established under this subsection.''.

(2) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(A) in subsection (a) of section 103, as amended by this subsection, by inserting ''(except when sitting en banc under paragraph (2))'' after ''no judge designated under this subsection''; and

(B) in section 302(c) (50 U.S.C. 1822(c)), by inserting ''(except when sitting en banc)'' after ''except that no judge''.

(c) STAY OR MODIFICATION DURING AN APPEAL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f)(1) A judge of the court established under subsection (a), the court established under subsection (b) or a judge of that court, or the Supreme Court of the United States or a justice of that court, may, in accordance with the rules of their respective courts, enter a stay of an order or an order modifying an order of the court established under subsection (a) or the court established under subsection (b) entered under any title of this Act, while the court established under subsection (a) conducts a rehearing, while an appeal is pending to the court established under subsection (b), or while a petition of certiorari is pending in the Supreme Court of the United States, or during the pendency of any review by that court.

''(2) The authority described in paragraph (1) shall apply to an order entered under any provision of this Act.''.

SEC. 110. REVIEW OF PREVIOUS ACTIONS.

(a) DEFINITIONS.—In this section—

(1) the term ''element of the intelligence community'' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(2) the term ''Terrorist Surveillance Program'' means the intelligence program publicly confirmed by the President in a radio address on December 17, 2005, and any previous, subsequent or related, versions or elements of that program.

(b) AUDIT.—Not later than 180 days after the date of the enactment of this Act, the Inspectors General of the Department of Justice and relevant elements of the intelligence community shall work in conjunction to complete a comprehensive audit of the Terrorist Surveillance Program and any closely related intelligence activities, which shall include acquiring all documents relevant to such programs, including memoranda concerning the legal authority of a program, authorizations of a program, certifications to telecommunications carriers, and court orders.

(c) REPORT.——

(1) IN GENERAL.—Not later than 30 days after the completion of the audit under subsection (b), the Inspectors General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a joint report containing the results of that audit, including all documents acquired pursuant to the conduct of that audit.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(d) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by an Inspector General or any appropriate staff of an Inspector General for a security clearance necessary for the conduct of the audit under subsection (b) is conducted as expeditiously as possible.

(e) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR THE INSPECTORS GENERAL.—The Inspectors General of the Department of Justice and of the relevant elements of the intelligence community are authorized such additional legal and other personnel as may be necessary to carry out the prompt and timely preparation of the audit and report required under this section. Personnel authorized by this subsection shall perform such duties relating to the audit as the relevant Inspector General shall direct. The personnel authorized by this subsection are in addition to any other personnel authorized by law.

SEC. 111. TECHNICAL AND CONFORMING AMENDMENTS.

Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''; and

(2) in paragraph (2), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''.

MODIFICATION OF COMMITTEE REPORTED SUBSTITUTE

Mr. REID. Madam President, I am authorized by the chairman of the Judiciary Committee and, certainly, a majority of the Judiciary Committee to modify the Judiciary substitute amendment, and I send that modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008'' or the ''FISA Amendments Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SEC. 101. TARGETING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding after title VI the following new title:

"TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

"SEC. 701. DEFINITIONS.

''In this title:

''(1) IN GENERAL.—The terms 'agent of a foreign power', 'Attorney General', 'electronic surveillance', 'foreign intelligence information', 'foreign power', 'minimization procedures', 'person', 'United States', and 'United States person' shall have the meanings given such terms in section 101.

''(2) ADDITIONAL DEFINITIONS.—

''(A) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(i) the Select Committee on Intelligence of the Senate; and

''(ii) the Permanent Select Committee on Intelligence of the House of Representatives.

''(B) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established by section 103(a).

''(C) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The terms 'Foreign Intelligence Surveillance Court of Review' and 'Court of Review' mean the court established by section 103(b).

''(D) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(i) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(ii) a provider of electronic communications service, as that term is defined in section 2510 of title 18, United States Code;

''(iii) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(iv) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

''(v) an officer, employee, or agent of an entity described in clause (i), (ii), (iii), or (iv).

''(E) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

"SEC. 702. PROCEDURES FOR ACQUIRING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

''(a) AUTHORIZATION.—Notwithstanding any other provision of law, including title I, the Attorney General and the Director of National Intelligence may authorize jointly, for periods of up to 1 year, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

''(b) LIMITATIONS.—An acquisition authorized under subsection (a)—

''(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

''(2) may not intentionally target a person reasonably believed to be outside the United States if a significant purpose of such acquisition is to acquire the communications of a particular, known person reasonably believed to be located in the United States, except in accordance with title I; and

''(3) shall be conducted in a manner consistent with the fourth amendment to the Constitution of the United States.

''(c) UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES.—

''(1) ACQUISITION INSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—An acquisition authorized under subsection (a) that occurs inside the United States and—

''(A) constitutes electronic surveillance; or

''(B) is an acquisition of stored electronic communications or stored electronic data that otherwise requires a court order under this Act,

may not intentionally target a United States person reasonably believed to be outside the United States, except in accordance with title I or III. For the purposes of an acquisition under this subsection, the term 'agent of a foreign power' as used in those titles shall include a person who is an officer of a foreign power or an employee of a foreign power who is reasonably believed to have access to foreign intelligence information.

''(2) ACQUISITION OUTSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—

''(A) JURISDICTION AND SCOPE.—

''(i) JURISDICTION.—The Foreign Intelligence Surveillance Court shall have jurisdiction to enter an order pursuant to subparagraph (C).

''(ii) SCOPE.—No element of the intelligence community may intentionally target, for the purpose of acquiring foreign intelligence information, a United States person reasonably believed to be located outside the United States under circumstances in which the targeted United States person has a reasonable expectation of privacy and a warrant would be required if the acquisition were conducted inside the United States for law enforcement purposes, unless a judge of the Foreign Intelligence Surveillance Court has entered an order or the Attorney General has authorized an emergency acquisition pursuant to subparagraph (C) or (D) or any other provision of this Act.

''(iii) LIMITATIONS.—

''(I) MOVING OR MISIDENTIFIED TARGETS.—In the event that the targeted United States person is reasonably believed to be in the United States during the pendency of an order issued pursuant to subparagraph (C), such acquisition shall cease until authority is obtained pursuant to this Act or the targeted United States person is again reasonably believed to be located outside the United States during the pendency of an order issued pursuant to subparagraph (C).

''(II) APPLICABILITY.—If the acquisition could be authorized under paragraph (1), the procedures of paragraph (1) shall apply, unless an order or emergency acquisition authority has been obtained under a provision of this Act other than under this paragraph.

''(B) APPLICATION.—Each application for an order under this paragraph shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under subparagraph (A)(i). Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements of such application as set forth in this paragraph and shall include—

''(i) the identity, if known, or a description of the specific United States person who is the target of the acquisition;

''(ii) a statement of the facts and circumstances relied upon to justify the applicant's belief that the target of the acquisition is—

''(I) a United States person reasonably believed to be located outside the United States; and

''(II) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

''(iii) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President by and with the advice and consent of the Senate—

''(I) that the certifying official deems the information sought to be foreign intelligence information;

''(II) that a significant purpose of the acquisition is to obtain foreign intelligence information;

''(III) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

''(IV) that includes a statement of the basis for the certification that the information sought is the type of foreign intelligence information designated;

''(iv) a statement of the proposed minimization procedures consistent with the requirements of section 101(h) or section 301(4);

''(v) a statement of the facts concerning any previous applications that have been made to any judge of the Foreign Intelligence Surveillance Court involving the United States person specified in the application and the action taken on each previous application; and

''(vi) a statement of the period of time for which the acquisition is required to be maintained, provided that such period of time shall not exceed 90 days per application.

''(C) ORDER.—

''(i) FINDINGS.—If, upon an application made pursuant to subparagraph (B), a judge having jurisdiction under subparagraph (A)(i) finds that—

''(I) on the basis of the facts submitted by the applicant there is probable cause to believe that the specified target of the acquisition is—

''(aa) a person reasonably believed to be located outside the United States; and

''(bb) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

''(II) the proposed minimization procedures, with respect to their dissemination provisions, meet the definition of minimization procedures under section 101(h) or section 301(4); and

''(III) the certification or certifications required by subparagraph (B) are not clearly erroneous on the basis of the statement made under subparagraph (B)(iii)(IV),

the Court shall issue an ex parte order so stating.

''(ii) PROBABLE CAUSE.—In determining whether or not probable cause exists for purposes of an order under clause (i)(I), a judge having jurisdiction under subparagraph (A)(i) may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target. However, no United States person may be considered a foreign power, agent of a foreign power, or officer or employee of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

''(iii) REVIEW.—

''(I) LIMITATIONS ON REVIEW.—Review by a judge having jurisdiction under subparagraph (A)(i) shall be limited to that required to make the findings described in clause (i). The judge shall not have jurisdiction to review the means by which an acquisition under this paragraph may be conducted.

''(II) REVIEW OF PROBABLE CAUSE.—If the judge determines that the facts submitted under subparagraph (B) are insufficient to establish probable cause to issue an order under this subparagraph, the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subclause pursuant to subparagraph (E).

''(III) REVIEW OF MINIMIZATION PROCEDURES.—If the judge determines that the minimization procedures applicable to dissemination of information obtained through an acquisition under this subparagraph do not meet the definition of minimization procedures under section 101(h) or section 301(4), the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subclause pursuant to subparagraph (E).

''(iv) DURATION.—An order under this subparagraph shall be effective for a period not to exceed 90 days and such order may be renewed for additional 90-day periods upon submission of renewal applications meeting the requirements of subparagraph (B).

''(D) EMERGENCY AUTHORIZATION.—

''(i) AUTHORITY FOR EMERGENCY AUTHORIZATION.—Notwithstanding any other provision in this subsection, if the Attorney General reasonably determines that—

''(I) an emergency situation exists with respect to the acquisition of foreign intelligence information for which an order may be obtained under subparagraph (C) before an order under that subsection may, with due diligence, be obtained; and

''(II) the factual basis for issuance of an order under this paragraph exists,

the Attorney General may authorize the emergency acquisition if a judge having jurisdiction under subparagraph (A)(i) is informed by the Attorney General or a designee of the Attorney General at the time of such authorization that the decision has been made to conduct such acquisition and if an application in accordance with this paragraph is made to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 168 hours after the Attorney General authorizes such acquisition.

''(ii) MINIMIZATION PROCEDURES.—If the Attorney General authorizes such emergency acquisition, the Attorney General shall require that the minimization procedures required by this subparagraph be followed.

''(iii) TERMINATION OF EMERGENCY AUTHORIZATION.—In the absence of an order under subparagraph (C), the acquisition shall terminate when the information sought is obtained, if the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(iv) USE OF INFORMATION.—In the event that such application is denied, or in any other case where the acquisition is terminated and no order is issued approving the acquisition, no information obtained or evidence derived from such acquisition, except under circumstances in which the target of the acquisition is determined not to be a United States person during the pendency of the 168-hour emergency acquisition period, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(E) APPEAL.—

''(i) APPEAL TO THE COURT OF REVIEW.—The Government may file an appeal with the Foreign Intelligence Surveillance Court of Review for review of an order issued pursuant to subparagraph (C). The Court of Review shall have jurisdiction to consider such appeal and shall provide a written statement for the record of the reasons for a decision under this subparagraph.

''(ii) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under clause (i). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(F) JOINT APPLICATIONS AND ORDERS.—If an acquisition targeting a United States person under paragraph (1) or this paragraph is proposed to be conducted both inside and outside the United States, a judge having jurisdiction under subparagraph (A) and section 103(a) may issue simultaneously, upon the request of the Government in a joint application complying with the requirements of subparagraph (B) and section 104 or 303, orders authorizing the proposed acquisition under subparagraph (B) and section 105 or 304 as applicable.

''(G) CONCURRENT AUTHORIZATION.—If an order authorizing electronic surveillance or physical search has been obtained under section 105 or 304 and that order is in effect, the Attorney General may authorize, during the pendency of such order and without an order under this paragraph, an acquisition under this paragraph of foreign intelligence information targeting that United States person while such person is reasonably believed to be located outside the United States. Prior to issuing such an authorization, the Attorney General shall submit dissemination provisions of minimization procedures for such an acquisition to a judge having jurisdiction under subparagraph (A) for approval.

''(d) CONDUCT OF ACQUISITION.—An acquisition authorized under subsection (a) may be conducted only in accordance with—

''(1) a certification made by the Attorney General and the Director of National Intelligence pursuant to subsection (g); and

''(2) the targeting and minimization procedures required pursuant to subsections (e) and (f).

''(e) TARGETING PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt targeting procedures that are reasonably designed to ensure that any acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States, and that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States.

''(2) JUDICIAL REVIEW.—The procedures referred to in paragraph (1) shall be subject to judicial review pursuant to subsection (i).

''(f) MINIMIZATION PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt, consistent with the requirements of section 101(h), minimization procedures for acquisitions authorized under subsection (a).

''(2) JUDICIAL REVIEW.—The minimization procedures required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(g) CERTIFICATION.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Subject to subparagraph (B), prior to the initiation of an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence shall provide, under oath, a written certification, as described in this subsection.

''(B) EXCEPTION.—If the Attorney General and the Director of National Intelligence determine that immediate action by the Government is required and time does not permit the preparation of a certification under this subsection prior to the initiation of an acquisition, the Attorney General and the Director of National Intelligence shall prepare such certification, including such determination, as soon as possible but in no event more than 168 hours after such determination is made.

''(2) REQUIREMENTS.—A certification made under this subsection shall—

''(A) attest that—

''(i) there are reasonable procedures in place for determining that the acquisition authorized under subsection (a) is targeted at persons reasonably believed to be located outside the United States and that such procedures have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(ii) the procedures referred to in clause (i) are consistent with the requirements of the fourth amendment to the Constitution of the United States and do not permit the intentional targeting of any person who is known at the time of acquisition to be located in the United States;

''(iii) the procedures referred to in clause (i) require that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States;

''(iv) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(v) the minimization procedures to be used with respect to such acquisition—

''(I) meet the definition of minimization procedures under section 101(h); and

''(II) have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(vi) the acquisition involves obtaining the foreign intelligence information from or with the assistance of an electronic communication service provider; and

''(vii) the acquisition of the contents (as that term is defined in section 2510(8) of title

18, United States Code)) of any communication is limited to communications to which any party is an individual target (which shall not be limited to known or named individuals) who is reasonably believed to be located outside of the United States, and a significant purpose of the acquisition of the communications of the target is to obtain foreign intelligence information; and

''(B) be supported, as appropriate, by the affidavit of any appropriate official in the area of national security who is—

''(i) appointed by the President, by and with the consent of the Senate; or

''(ii) the head of any element of the intelligence community.

''(3) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under subsection (a) will be directed or conducted.

''(4) SUBMISSION TO THE COURT.—The Attorney General shall transmit a copy of a certification made under this subsection, and any supporting affidavit, under seal to the Foreign Intelligence Surveillance Court as soon as possible, but in no event more than 5 days after such certification is made. Such certification shall be maintained under security measures adopted by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence.

''(5) REVIEW.—The certification required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(h) DIRECTIVES.—

''(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

''(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target; and

''(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

''(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance pursuant to paragraph (1).

''(3) RELEASE FROM LIABILITY.—Notwithstanding any other law, no cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

''(4) CHALLENGING OF DIRECTIVES.—

''(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider receiving a directive issued pursuant to paragraph (1) may challenge the directive by filing a petition with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign the petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that the directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with the directive. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under this paragraph shall remain in full effect.

''(5) ENFORCEMENT OF DIRECTIVES.—

''(A) ORDER TO COMPEL.—In the case of a failure to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel compliance with the directive with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition shall issue an order requiring the electronic communication service provider to comply with the directive if the judge finds that the directive was issued in accordance with paragraph (1), meets the requirements of this section, and is otherwise lawful. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this paragraph may be punished by the Court as contempt of court.

''(E) PROCESS.—Any process under this paragraph may be served in any judicial district in which the electronic communication service provider may be found.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of the decision issued pursuant to paragraph (4) or (5) not later than 7 days after the issuance of such decision. The Court of Review shall have jurisdiction to consider such a petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(i) JUDICIAL REVIEW.—

''(1) IN GENERAL.—

''(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review any certification required by subsection (d) or targeting and minimization procedures adopted pursuant to subsections (e) and (f).

''(B) SUBMISSION TO THE COURT.—The Attorney General shall submit to the Court any such certification or procedure, or amendment thereto, not later than 5 days after making or amending the certification or adopting or amending the procedures.

''(2) CERTIFICATIONS.—The Court shall review a certification provided under subsection (g) to determine whether the certification contains all the required elements.

''(3) TARGETING PROCEDURES.—The Court shall review the targeting procedures required by subsection (e) to assess whether the procedures are reasonably designed to ensure that the acquisition authorized under subsection (a) is limited to the targeting of persons reasonably believed to be located outside the United States, and are reasonably designed to ensure that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States.

''(4) MINIMIZATION PROCEDURES.—The Court shall review the minimization procedures required by subsection (f) to assess whether such procedures meet the definition of minimization procedures under section 101(h).

''(5) ORDERS.—

''(A) APPROVAL.—If the Court finds that a certification required by subsection (g) contains all of the required elements and that the targeting and minimization procedures required by subsections (e) and (f) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the continued use of the procedures for the acquisition authorized under subsection (a).

''(B) CORRECTION OF DEFICIENCIES.—

''(i) IN GENERAL.—If the Court finds that a certification required by subsection (g) does not contain all of the required elements, or that the procedures required by subsections (e) and (f) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the Court's order—

''(I) correct any deficiency identified by the Court's order not later than 30 days after the date the Court issues the order; or

''(II) cease the acquisition authorized under subsection (a).

''(ii) LIMITATION ON USE OF INFORMATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), no information obtained or evidence derived from an acquisition under clause (i)(I) concerning any United States person shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(II) EXCEPTION.—If the Government corrects any deficiency identified by the Court's order under clause (i), the Court may permit the use or disclosure of information acquired before the date of the correction pursuant to such minimization procedures as the Court shall establish for purposes of this clause.

''(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of its orders under this subsection, the Court shall provide, simultaneously with the orders, for the record a written statement of its reasons.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government may appeal any order under this section to the Foreign Intelligence Surveillance Court of Review, which shall have jurisdiction to review such order. For any decision affirming, reversing, or modifying

an order of the Foreign Intelligence Surveillance Court, the Court of Review shall provide for the record a written statement of its reasons.

''(B) CONTINUATION OF ACQUISITION PENDING REHEARING OR APPEAL.—Any acquisition affected by an order under paragraph (5)(B) may continue—

''(i) during the pendency of any rehearing of the order by the Court en banc; or

''(ii) if the Government appeals an order under this section, until the Court of Review enters an order under subparagraph (C).

''(C) IMPLEMENTATION PENDING APPEAL.—Not later than 30 days after the date on which an appeal of an order under paragraph (5)(B) directing the correction of a deficiency is filed, the Court of Review shall determine, and enter a corresponding order regarding, whether all or any part of the correction order, as issued or modified, shall be implemented during the pendency of the appeal.

''(D) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(7) COMPLIANCE REVIEWS.—During the period that minimization procedures approved under paragraph (5)(A) are in effect, the Court may review and assess compliance with such procedures by reviewing the semiannual assessments submitted by the Attorney General and the Director of National Intelligence pursuant to subsection (l)(1) with respect to compliance with such procedures. In conducting a review under this paragraph, the Court may, to the extent necessary, require the Government to provide additional information regarding the acquisition, retention, or dissemination of information concerning United States persons during the course of an acquisition authorized under subsection (a). The Court may fashion remedies it determines necessary to enforce compliance.

''(j) JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

''(k) MAINTENANCE OF RECORDS.—

''(1) STANDARDS.—A record of a proceeding under this section, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(3) RETENTION OF RECORDS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.

''(l) OVERSIGHT.—

''(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the targeting and minimization procedures required by subsections (c), (e), and (f) and shall submit each such assessment to—

''(A) the Foreign Intelligence Surveillance Court; and

''(B) the congressional intelligence committees.

''(2) AGENCY ASSESSMENT.—The Inspectors General of the Department of Justice and of any element of the intelligence community authorized to acquire foreign intelligence information under subsection (a)—

''(A) are authorized to review the compliance of their agency or element with the targeting and minimization procedures required by subsections (c), (e), and (f);

''(B) with respect to acquisitions authorized under subsection (a), shall review the number of disseminated intelligence reports containing a reference to a United States person identity and the number of United States person identities subsequently disseminated by the element concerned in response to requests for identities that were not referred to by name or title in the original reporting;

''(C) with respect to acquisitions authorized under subsection (a), shall review the number of targets that were later determined to be located in the United States and an estimate of the number of persons reasonably believed to be located in the United States whose communications were reviewed; and

''(D) shall provide each such review to—

''(i) the Attorney General;

''(ii) the Director of National Intelligence; and

''(iii) the congressional intelligence committees.

''(3) ANNUAL REVIEW.—

''(A) REQUIREMENT TO CONDUCT.—The head of an element of the intelligence community conducting an acquisition authorized under subsection (a) shall direct the element to conduct an annual review to determine whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition. The annual review shall provide, with respect to such acquisitions authorized under subsection (a)—

''(i) an accounting of the number of disseminated intelligence reports containing a reference to a United States person identity;

''(ii) an accounting of the number of United States person identities subsequently disseminated by that element in response to requests for identities that were not referred to by name or title in the original reporting; and

''(iii) the number of targets that were later determined to be located in the United States and an estimate of the number of persons reasonably believed to be located in the United States whose communications were reviewed.

''(B) USE OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall use each such review to evaluate the adequacy of the minimization procedures utilized by such element or the application of the minimization procedures to a particular acquisition authorized under subsection (a).

''(C) PROVISION OF REVIEW TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall provide such review to the Foreign Intelligence Surveillance Court.

''(4) REPORTS TO CONGRESS.—

''(A) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning the implementation of this Act.

''(B) CONTENT.—Each report made under subparagraph (A) shall include—

''(i) any certifications made under subsection (g) during the reporting period;

''(ii) any directives issued under subsection (h) during the reporting period;

''(iii) the judicial review during the reporting period of any such certifications and targeting and minimization procedures utilized with respect to such acquisition, including a copy of any order or pleading in connection with such review that contains a significant legal interpretation of the provisions of this Act;

''(iv) any actions taken to challenge or enforce a directive under paragraphs (4) or (5) of subsections (h);

''(v) any compliance reviews conducted by the Department of Justice or the Office of the Director of National Intelligence of acquisitions authorized under subsection (a);

''(vi) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under subsection (h), including—

''(I) incidents of noncompliance by an element of the intelligence community with procedures adopted pursuant to subsections (c), (e), and (f); and

''(II) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issued a directive under subsection (h);

''(vii) any procedures implementing this section; and

''(viii) any annual review conducted pursuant to paragraph (3).

''SEC. 703. USE OF INFORMATION ACQUIRED UNDER SECTION 702.

''Information acquired from an acquisition conducted under section 702 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106, except for the purposes of subsection (j) of such section.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking the item relating to title VII;

(2) by striking the item relating to section 701; and

(3) by adding at the end the following:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''Sec. 701. Definitions.

''Sec. 702. Procedures for acquiring the communications of certain persons outside the United States.

''Sec. 703. Use of information acquired under section 702.''.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a)(2) and (b) shall cease to have effect on December 31, 2011.

(2) CONTINUING APPLICABILITY.—Section 702(h)(3) of the Foreign Intelligence Surveillance Act of 1978 (as amended by subsection (a)) shall remain in effect with respect to any directive issued pursuant to section 702(h) of that Act (as so amended) during the period such directive was in effect. The use of information acquired by an acquisition conducted under section 702 of that Act (as so amended) shall continue to be governed by the provisions of section 703 of that Act (as so amended).

SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED.

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

''STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED

''SEC. 112. (a) Except as provided in subsection (b), the procedures of chapters 119, 121 and 206 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted.

''(b) Only an express statutory authorization for electronic surveillance or the interception of domestic, wire, oral, or electronic communications, other than as an amendment to this Act or chapters 119, 121, or 206 of title 18, United States Code, shall constitute an additional exclusive means for the purpose of subsection (a).''.

(b) OFFENSE.—Section 109 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809) is amended—

(1) in subsection (a), by striking ''authorized by statute'' each place it appears in such section and inserting ''authorized by this Act, chapter 119, 121, or 206 of title 18, United States Code, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 112.''; and

(2) by adding at the end the following:

''(e) DEFINITION.—For the purpose of this section, the term 'electronic surveillance' means electronic surveillance as defined in section 101(f) of this Act.''.

(c) CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—Section 2511(2)(a) of title 18, United States Code, is amended by adding at the end the following:

''(iii) If a certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information is based on statutory authority, the certification shall identify the specific statutory provision, and shall certify that the statutory requirements have been met.''.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.''.

SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT ORDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) INCLUSION OF CERTAIN ORDERS IN SEMI-ANNUAL REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by striking ''(not including orders)'' and inserting '', orders,''.

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following new subsection:

''(c) SUBMISSIONS TO CONGRESS.—The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

''(1) a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act, and any pleadings associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and

''(2) a copy of any such decision, order, or opinion, and the pleadings associated with such decision, order, or opinion, that was issued during the 5-year period ending on the date of the enactment of the FISA Amendments Act of 2008 and not previously submitted in a report under subsection (a).''.

SEC. 104. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (11);

(B) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(C) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation is unavailable—'';

(E) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking ''statement of'' and inserting ''summary statement of'';

(F) in paragraph (8), as redesignated by subparagraph (B) of this paragraph, by adding ''and'' at the end; and

(G) in paragraph (9), as redesignated by subparagraph (B) of this paragraph, by striking ''; and'' and inserting a period;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3) of this subsection, by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

SEC. 105. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (b), by striking ''(a)(3)'' and inserting ''(a)(2)'';

(3) in subsection (c)(1)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (F);

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(6) by amending subsection (e), as redesignated by paragraph (5) of this section, to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

''(C) informs, either personally or through a designee, a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

''(D) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not later than 168 hours after the Attorney General authorizes such surveillance.

''(2) If the Attorney General authorizes the emergency employment of electronic surveillance under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5) In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(6) The Attorney General shall assess compliance with the requirements of paragraph (5).''; and

(7) by adding at the end the following:

''(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, upon the request of the applicant, the judge shall also authorize the installation and use of pen registers and trap and trace devices, and direct the disclosure of the information set forth in section 402(d)(2).''.

SEC. 106. USE OF INFORMATION.

Subsection (i) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (8 U.S.C. 1806) is amended by striking ''radio communication'' and inserting ''communication''.

SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.

(a) APPLICATIONS.—Section 303 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1823) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(C) in paragraph (2), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (3)(C), as redesignated by subparagraph (B) of this paragraph, by inserting ''or is about to be'' before ''owned''; and

(E) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director

of the Federal Bureau of Investigation is unavailable—''; and

(2) in subsection (d)(1)(A), by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

(b) ORDERS.—Section 304 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(2) by amending subsection (e) to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of a physical search if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of a physical search to obtain foreign intelligence information before an order authorizing such physical search can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such physical search exists;

''(C) informs, either personally or through a designee, a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency physical search; and

''(D) makes an application in accordance with this title to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 168 hours after the Attorney General authorizes such physical search.

''(2) If the Attorney General authorizes the emergency employment of a physical search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such physical search, the physical search shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5)(A) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the physical search, no information obtained or evidence derived from such physical search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such physical search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(B) The Attorney General shall assess compliance with the requirements of subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 304(a)(4), as redesignated by subsection (b) of this section, by striking ''303(a)(7)(E)'' and inserting ''303(a)(6)(E)''; and

(2) in section 305(k)(2), by striking ''303(a)(7)'' and inserting ''303(a)(6)''.

SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a)(2), by striking ''48 hours'' and inserting ''168 hours''; and

(2) in subsection (c)(1)(C), by striking ''48 hours'' and inserting ''168 hours''.

SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) DESIGNATION OF JUDGES.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by inserting ''at least'' before ''seven of the United States judicial circuits''.

(b) EN BANC AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a) of this section, is further amended—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) The court established under this subsection may, on its own initiative, or upon the request of the Government in any proceeding or a party under section 501(f) or paragraph (4) or (5) of section 702(h), hold a hearing or rehearing, en banc, when ordered by a majority of the judges that constitute such court upon a determination that—

''(i) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

''(ii) the proceeding involves a question of exceptional importance.

''(B) Any authority granted by this Act to a judge of the court established under this subsection may be exercised by the court en banc. When exercising such authority, the court en banc shall comply with any requirements of this Act on the exercise of such authority.

''(C) For purposes of this paragraph, the court en banc shall consist of all judges who constitute the court established under this subsection.''.

(2) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(A) in subsection (a) of section 103, as amended by this subsection, by inserting ''(except when sitting en banc under paragraph (2))'' after ''no judge designated under this subsection''; and

(B) in section 302(c) (50 U.S.C. 1822(c)), by inserting ''(except when sitting en banc)'' after ''except that no judge''.

(c) STAY OR MODIFICATION DURING AN APPEAL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f)(1) A judge of the court established under subsection (a), the court established under subsection (b) or a judge of that court, or the Supreme Court of the United States or a justice of that court, may, in accordance with the rules of their respective courts, enter a stay of an order or an order modifying an order of the court established under subsection (a) or the court established under subsection (b) entered under any title of this Act, while the court established under subsection (a) conducts a rehearing, while an appeal is pending to the court established under subsection (b), or while a petition of certiorari is pending in the Supreme Court of the United States, or during the pendency of any review by that court.

''(2) The authority described in paragraph (1) shall apply to an order entered under any provision of this Act.''.

SEC. 110. REVIEW OF PREVIOUS ACTIONS.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) TERRORIST SURVEILLANCE PROGRAM AND PROGRAM.—The terms ''Terrorist Surveillance Program'' and ''Program'' mean the intelligence activity involving communications that was authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007.

(b) REVIEWS.—

(1) REQUIREMENT TO CONDUCT.—The Inspectors General of the Office of the Director of National Intelligence, the Department of Justice, the National Security Agency, and any other element of the intelligence community that participated in the Terrorist Surveillance Program shall work in conjunction to complete a comprehensive review of, with respect to the oversight authority and responsibility of each such Inspector General—

(A) all of the facts necessary to describe the establishment, implementation, product, and use of the product of the Program;

(B) the procedures and substance of, and access to, the legal reviews of the Program;

(C) communications with, and participation of, individuals and entities in the private sector related to the Program;

(D) interaction with the Foreign Intelligence Surveillance Court and transition to court orders related to the Program; and

(E) any other matters identified by such an Inspector General that would enable that Inspector General to report a complete description of the Program, with respect to such element.

(2) COOPERATION.—Each Inspector General required to conduct a review under paragraph (1) shall—

(A) work in conjunction, to the extent possible, with any other Inspector General required to conduct such a review; and

(B) utilize to the extent practicable, and not unnecessarily duplicate or delay, such reviews or audits that have been completed or are being undertaken by such an Inspector General or by any other office of the Executive Branch related to the Program.

(c) REPORTS.—

(1) PRELIMINARY REPORTS.—Not later than 60 days after the date of the enactment of this Act, the Inspectors General of the Office of the Director of National Intelligence and the Department of Justice, in conjunction with any other Inspector General required to conduct a review under subsection (b)(1), shall submit to the appropriate committees of Congress an interim report that describes the planned scope of such review.

(2) FINAL REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspectors General required to conduct such a review shall submit to the appropriate committees of Congress, to the extent practicable, a comprehensive report on such reviews that includes any recommendations of such Inspectors General within the oversight authority and responsibility of such Inspector General with respect to the reviews.

(3) FORM.—A report submitted under this subsection shall be submitted in unclassified form, but may include a classified annex. The unclassified report shall not disclose the name or identity of any individual or entity

of the private sector that participated in the Program or with whom there was communication about the Program.

(d) RESOURCES.—

(1) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by an Inspector General or any appropriate staff of an Inspector General for a security clearance necessary for the conduct of the review under subsection (b)(1) is carried out as expeditiously as possible.

(2) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR THE INSPECTORS GENERAL.—An Inspector General required to conduct a review under subsection (b)(1) and submit a report under subsection (c) is authorized to hire such additional legal or other personnel as may be necessary to carry out such review and prepare such report in a prompt and timely manner. Personnel authorized to be hired under this paragraph—

(A) shall perform such duties relating to such a review as the relevant Inspector General shall direct; and

(B) are in addition to any other personnel authorized by law.

SEC. 111. TECHNICAL AND CONFORMING AMENDMENTS.

Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''; and

(2) in paragraph (2), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''.

TITLE II—OTHER PROVISIONS

SEC. 201. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act, any such amendments, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

SEC. 202. EFFECTIVE DATE; REPEAL; TRANSITION PROCEDURES.

(a) IN GENERAL.—Except as provided in subsection (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) REPEAL.—

(1) IN GENERAL.—Except as provided in subsection (c), sections 105A, 105B, and 105C of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a, 1805b, and 1805c) are repealed.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to sections 105A, 105B, and 105C.

(c) TRANSITIONS PROCEDURES.—

(1) PROTECTION FROM LIABILITY.—Notwithstanding subsection (b)(1), subsection (l) of section 105B of the Foreign Intelligence Surveillance Act of 1978 shall remain in effect with respect to any directives issued pursuant to such section 105B for information, facilities, or assistance provided during the period such directive was or is in effect.

(2) ORDERS IN EFFECT.—

(A) ORDERS IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(i) any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 or section 6(b) of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 556) shall remain in effect until the date of expiration of such order; and

(ii) at the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall reauthorize such order if the facts and circumstances continue to justify issuance of such order under the provisions of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

(B) ORDERS IN EFFECT ON DECEMBER 31, 2011.—Any order issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2011, shall continue in effect until the date of the expiration of such order. Any such order shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended.

(3) AUTHORIZATIONS AND DIRECTIVES IN EFFECT.—

(A) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978, any authorization or directive in effect on the date of the enactment of this Act issued pursuant to the Protect America Act of 2007, or any amendment made by that Act, shall remain in effect until the date of expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Protect America Act of 2007 (121 Stat. 552), and the amendment made by that Act, and, except as provided in paragraph (4) of this subsection, any acquisition pursuant to such authorization or directive shall be deemed not to constitute electronic surveillance (as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)), as construed in accordance with section 105A of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a)).

(B) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DECEMBER 31, 2011.—Any authorization or directive issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2011, shall continue in effect until the date of the expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended.

(4) USE OF INFORMATION ACQUIRED UNDER PROTECT AMERICA ACT.—Information acquired from an acquisition conducted under the Protect America Act of 2007, and the amendments made by that Act, shall be deemed to be information acquired from an electronic surveillance pursuant to title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for purposes of section 106 of that Act (50 U.S.C. 1806), except for purposes of subsection (j) of such section.

(5) NEW ORDERS.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(A) the government may file an application for an order under the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act; and

(B) the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall enter an order granting such an application if the application meets the requirements of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

(6) EXTANT AUTHORIZATIONS.—At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act.

(7) APPLICABLE PROVISIONS.—Any surveillance conducted pursuant to an order entered pursuant to this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

Mr. REID. Madam President, we have conferred with our colleagues on the other side of the aisle. Senator BOND is aware of this new amendment. He has not had time to study the amendment. He has been busy all day, as have all my Republican colleagues at their retreat. But he will have time to work on this tonight. His staff is working on it. We hope tomorrow to have a couple hours of debate, and then it is my understanding there could be and likely will be a motion to table this amendment.

I want to make sure Senators have adequate time to debate this amendment tomorrow. This is, if not the key amendment, one of the key amendments to this legislation, and we want to make sure everyone has adequate time. We are going to come in early in the morning and start this matter as quickly as we can. So I am not going to ask consent tonight as to how much time will be spent on it, but this will be the matter we take up tomorrow.

I have spoken to Senator WHITEHOUSE, who is a member not only of the Judiciary Committee but also the Intelligence Committee. He has a very important amendment he wishes to offer. It is a bipartisan amendment he has worked on for a significant period of time, and we look forward to this amendment.

Hopefully, we can work our way through some of these contentious amendments tomorrow. It is something we need to do, and we are going to work as hard as we can. There are strong feelings on each side. Everyone has worked in good faith. I especially appreciate the cooperation of Senator LEAHY and Senator ROCKEFELLER. They have not agreed on everything, but they have agreed on a lot, and they have worked in a very professional manner in working our way to the point where we now are.

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

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

Mr. REID. Madam President, there will be no more votes tonight. We have a number of Senators who wish to speak. We understand Senator BOND will be here, Senator ROCKEFELLER will be here, Senator DODD will be here. That is good. They are going to be

speaking about the legislation that is now before this body.

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

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

Mr. CARDIN. Madam President, I take this time to speak in favor of the Leahy substitute amendment to the FISA legislation. I start by thanking Senator ROCKEFELLER and Senator BOND, Senator LEAHY and Senator SPECTER for their extraordinary work on this most difficult subject. This is not an easy subject. We are dealing with a technology that has changed and the need of our country to get information through our intelligence community, which is important for our national security, and protecting the constitutional and civil rights of the people of our Nation.

The Leahy substitute is a bill that was carefully worked and drafted within the Judiciary Committee. The Intelligence Committee came up with their legislation. We passed it rather quickly before the recess. The Judiciary Committee spent a lot of time looking at the substance of how we could make sure we got the language right, to make sure the intelligence community has the information they need, and that we do protect the rights of the people of our own country. The Leahy substitute does that, with the right balance.

I start by saying that I have been to NSA on many occasions. It is located in the State of Maryland. The dedicated men and women who work there work very hard to protect the interests of our Nation. They do it with a great deal of dedication and sensitivity to the type of information they obtain and how important it is to our country, but it must be done in the right way. The need for the FISA legislation is so we can continue to get information from non-Americans that is important for our national security. Much of this information is obtained from what we call foreign to foreign, where we have communications between an American and a non-American in a country outside of the United States, but because of technology it falls within the definition of the FISA statute. We need to clarify that in a way that will allow the intelligence community to get that information foreign to foreign, information that is important for the security of our country. The Leahy substitute recognizes the change in technology and the need for this information but does it in a way that protects the constitutional rights of the citizens of our own country and the civil rights of Americans.

Where an American is a target, that person should have certain rights. The Leahy substitute protects Americans who are targets of intelligence gathering when they are outside of the United States. When they are inside the United States, there has never been a question that you need to get certain warrants and certain information. Well, this legislation also makes it clear that where an American is a target outside of the United States, that individual will have proper protection. But the legislation goes further and says that in the course of obtaining information, you may get incidental information about an American who was not the target of the investigation, but the American comes up in the communication that has been gathered. We have certain minimization rules to protect the rights of Americans who are incidental to the information being gathered by the intelligence community. The Leahy substitute protects Americans through strengthening the minimization rules.

The Leahy substitute protects the process by involving the courts. The FISA courts are involved in making sure that the right procedures are used in gathering information so that Americans are protected.

The Leahy substitute contains a provision offered by Senator FEINSTEIN to make it clear that the gathering of information under the FISA statute is the exclusive way in which the intelligence community can get information of foreign-to-foreign communications or communications that involve telecommunications centers located in the United States, but that the FISA statute is the exclusive way to proceed so there will not be confusion in the future as to whether there are extraordinary authorities you can use warrantless types of intercepts without having congressional approval. It is the right balance, as I have indicated before, and I urge my colleagues to support the Judiciary Committee's substitute offered by Senator LEAHY.

It even goes further than that. The Leahy substitute does not contain the retroactive immunity. The Intelligence Committee bill contains retroactive immunity for telecommunications companies. Now, my major problem with that is it will take away the appropriate jurisdiction of our courts to act as a check and balance on potential abuses of our rights of privacy. I must tell my colleagues—and I said this in the Judiciary Committee and I have said it on the floor—that telecommunications companies operating in good faith are entitled to help, entitled to relief. They have serious problems in defending their rights because of the confidential nature of the information they are dealing with, but there are ways to deal with that without compromising the independence of the judicial branch of Government, without compromising in the future the ability of our courts to make sure we protect the rights of our citizens.

If we adopt the Leahy substitute, there are going to be other amendments that will be offered that will deal in a responsible way with the concerns of the telecommunications companies. Senator SPECTER has an amendment that says: Look, if the telecommunications companies are operating in good faith, if they are innocent in all this where they can't defend themselves, then let's let the Government be substituted for the telecommunications company. That protects their interests, without compromising the ability of our courts to make sure that all of our rights have been protected. I think that is a better course than what the Intelligence Committee did. There will be an amendment offered by Senator FEINSTEIN which I am a cosponsor of that says, look, we should at least have the courts—the courts—make a judgment as to whether the telecommunications companies operated in good faith under law. That decision shouldn't be made by the executive branch that asked them for the information. That makes common sense to me and offers us at least some protection to make sure we are moving with court supervision. So the Leahy substitute offers us the advantage of eliminating the retroactive immunity which is extremely controversial, and allows us to consider that in its own right, which I am certain we will have a chance to do by the amendments that have been noted.

In addition, the Leahy substitute contains an amendment I offered in the Judiciary Committee that changes the sunset provisions, the termination of these provisions, from a 6-year sunset to a 4-year sunset. Why is that important? First, it is interesting to point out that the members of the Intelligence Committee and the members of the Judiciary Committee, in fact all of the Members of this body, have said we have gotten a lot of cooperation from the intelligence community, from the administration in carrying out our responsibility as the legislative branch of Government to oversee what the executive branch is doing in this area. There has been tremendous cooperation. Why? Because they know we have to pass a statute to continue this authority. We have gotten access to information that at least initially the administration indicated we would not have access to. Well, we got access to it—some of us did. I am sorry more were not offered the opportunity to take a look at the confidential communications—the classified communications. That type of cooperation is helpful when you have the requirement that Congress has to act.

Four years is preferable to six because it will mean the next administration that will take office in January of next year will have to deal with this issue. If we continue a 6-year sunset, there will be no need for the next two Congresses and the administration ever to have to deal with this authority and to take a look at it to see whether it is operating properly, to see whether technology changes have caused it to need to change the way the law is

drafted. But a 4-year sunset will mean we will have plenty of time for the agency with predictability to establish its practices for gathering intelligence information about foreign subjects, but we will also have an opportunity to review during the next administration whether these provisions need to be modified, whether there is a different way, a more effective way that we can get this information protecting the rights of the people of this Nation.

For all of those reasons, I urge this body to approve the substitute that is being offered by Senator LEAHY. It is the product of the Judiciary Committee. I believe it is a better way for us to collect the information. It gives us the chance to take a look at the immunity issue fresh and to make sure we don't compromise in the future the proper roles of our courts in protecting the privacy of the citizens of our own country. It provides for a much stronger oversight by the legislative branch of Government, and I urge my colleagues to support that amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

THE ECONOMY

Mr. BROWN. Madam President, I appreciate the comments of my colleague from Maryland and his insight. The economic house in our country is not in order. The United States may be entering its first recession since 2001—since the beginning of the Bush Presidency. It is pretty clear in my State of Ohio, from places I visited in January, from Kenton to Celina to Cincinnati to Lancaster, to places all over my State, that people are suffering. Food banks are at their most perilous time in at least 20 years.

In Logan, OH, a small community halfway between Columbus and the center of the State and the Ohio River and the town of Athens, halfway between Hocking County and Logan, OH, is the United Methodist Food Pantry. At 3:30 in the morning on a cold December day just about a month ago, people began to line up to go to this food bank, and by 8 o'clock, when the doors opened, cars were all the way up and down the road. This is a small county. By 1 o'clock in the afternoon, 2,000 people—7 percent of the people in this rural Appalachian county, Hocking County, Logan, OH—had come to this food bank; 2,000 people, 7 percent of the people who live in this county, many having driven 20 or 30 minutes to get there.

Middle-class families in Ohio and throughout our Nation face higher costs for energy and health care and education, amidst stagnant wages and falling home prices. In Lebanon, OH, in Warren County, the United Way director told me 90 percent of people going to food banks to pick up food are employed.

The mayor of Denver told a group of us today—Senator STABENOW and others—that 40 percent of homeless people in greater Denver are employed, they have jobs, but not making enough because of foreclosures or cost of food or transportation, simply not making—making low wages, not making enough to make a go of it.

Our Nation is bleeding jobs. The middle class is shrinking. People are hurting. When it comes to responding to these realities, we have several choices. We can try to buy time, as many of the Republican candidates for President are saying, and leave it at that. The economy is cyclical; it will get better; let's ride it out. No government involvement at all. That is one option.

The second option is we can enact a short-term economic stimulus package where we put money in the pockets of middle-class taxpayers, whether they are paying income tax or Social Security tax, put money in the pockets of middle-class taxpayers, extend unemployment compensation, offer aid for food stamps and food banks, and also offer aid to LIHEAP for seniors who are particularly victimized by this recession.

The third option is we can learn from our mistakes. We certainly need to do the short-term economic stimulus package. That is very important, but that is not enough. We can learn from our mistakes. We can confront the underlying causes of our Nation's economic stability. I want to focus on one of those causes. It is a refusal to acknowledge that U.S. trade policies must evolve as the global marketplace does.

When I first ran for Congress in 1992—the same year as the Presiding Officer was elected from her State of Washington—our trade deficit was $38 billion. Our trade deficit figures for 2007 are estimated at nearly $800 billion, and that is before we count the December numbers. So we know our trade deficit went from $38 billion to, a decade and a half later, nearly $800 billion.

President George Herbert Walker Bush has said that $1 billion in trade deficit or surplus translates into 13,000 jobs. So if you sell a billion dollars more out of the country than you import, that is a net increase of 13,000 jobs. If you export $1 billion less than you export, then that is costing 13,000 jobs. Do the math. We went from a $38 billion trade deficit to an $800 billion trade deficit.

The fact is, these job-killing trade agreements are hemorrhaging jobs out of our country and our manufacturing communities, from small towns such as Tippin, OH, to cities as large as Cleveland, OH, from places like Chillicothe, to places like Columbus. The U.S. trade deficit with China, which has continued to spiral upward, hit $238 billion through November of 2007. In 1992, the year I ran for Congress, our trade deficit with China was slightly over $10 billion. It hit over $238 billion, and that is just through November 2007. As President Bush the first said, $1 billion in trade deficit costs 13,000 jobs. Do the math.

Just with China alone, this is the highest annual imbalance ever recorded with a single country, with any bilateral relationship in world history. The trade deficit we have with China now accounts for 33 percent of the U.S. total trade deficit in goods.

Since 1982, our Nation has accumulated trade deficits of $4.3 trillion. That is money that must be eventually repaid. When you look at $4.3 trillion, think of the first President Bush's formula: a billion-dollar trade deficit costs 13,000 jobs.

Today, Americans are losing jobs for reasons, frankly, that have nothing to do with this recession. They have much to do with our country's narrow, myopic, tunnel-vision trade policies. When we craft trade deals that favor gains for multinational corporations over evenhanded competition for both trading partners, why should we be surprised when U.S. companies are crippled or they move out of the country? In Tippin, OH, where I visited a week and a half ago, workers are losing their pensions, health care, or the company has come in and raided these communities and put people out of work, so there are less dollars for schools, less dollars for police protection, for fire protection, and fewer dollars for the local hardware store, fewer dollars for the local restaurants, all of that.

That is why we need to enforce trade rules meant to prevent anticompetitive practices by countries such as China. We should not be surprised when our manufacturing sector—which is not only crucial to our economy but to national security—falters because of these anticompetitive practices. It is not in our Nation's best interest to rely on other nations for our defense infrastructure, our transportation infrastructure, our industrial infrastructure.

The tragedy is, we in this country do the best research and development in the world. We do the research and development and so often companies take that research and development and make the products in other countries. Then we continue to do research and development, and they continue to take the production of these items and goods and this research and these high-tech products out of our country. The research and development certainly creates jobs, good, high-paying jobs, many in the State of the Presiding Officer and many in mine.

The fact is, we cannot continue to run an economy when we do the research and development in this country and then we farm out the production of those goods that are developed to other countries, to exploit low-wage labor, to exploit weak environmental laws, to exploit worker safety laws, to exploit the consumer products safety net. Look at the toxic toys coming from China and the contaminated toothpaste and dog food, and the unsafe tires coming from countries that don't have a consumer products safety net and the food safety net we have.

We clearly need a stronger manufacturing sector such as we have had in our history. That sector cannot effectively compete against companies subsidized by the Chinese Government, companies that pay slave wages, that too often churn out dangerous toys that end up in our children's bedrooms, and toxic, contaminated food that ends up too often in our families breakfast rooms.

On a level, competitive playing field, U.S. companies thrive. When the cards are stacked against them, they struggle, of course.

In 2007, prior to the onset of the 2008 recession, 217,000 manufacturing jobs across the country were lost. That was last year before this recession seems to have deepened. Madam President, 217,000 jobs were lost in the manufacturing sector last year in places such as Youngstown, Warren, Ravenna, and Lima, all over my State.

The United States now has fewer manufacturing jobs—get this—the United States, now with 300 million people, has fewer manufacturing jobs today than it did in 1950 when we had about 150 million people in our country. Manufacturing jobs bring wealth to our communities. A job that pays $15 an hour in Marion, OH, and pays $14 an hour in Springfield, OH, brings wealth into the community that spends out into other jobs and prosperity for other people in the community.

We have lost more than 3 million manufacturing jobs since President Bush took office in 2001. Many of these jobs have been eliminated because of imports from China or direct offshoring to countries such as China.

Last week, NewPage, a paper manufacturing company based in Miamisburg, OH, near Dayton, announced it was shutting down plants in Wisconsin, Maine, and Chillicothe, OH. Heavily government-subsidized Chinese paper producers account for nearly 50 percent of the world market.

One country, because of subsidies and low wages, unenforced environmental rules, and pretty much nonexistent protection for workers, accounts for 50 percent of the world market. That is not free trade, that is a racket.

China has done little to address the fundamental misalignment of its currency, a practice that continues to take jobs and wealth from our country, and they don't share it with their workers. If they didn't have an oppressive, authoritarian government, it would be a different story. They are taking wealth out of our country, and it means higher profits for outsourcing companies, more money for the Chinese Communist Party, for the People's Liberation Army, but not much for Chinese workers.

When we allow China to manipulate currency, trade isn't free, it is fixed. When we allow China to import dangerous products into our country, we should not be surprised when Americans balk.

It took generations for our Nation to build a solid product safety system. If we don't demand safe imports from China and our other trading partner nations, our investment in U.S. product safety becomes an exercise in futility. Think how it happens. U.S. companies shut down an American toy manufacturer, for instance, and those U.S. companies, after shutting down the manufacturing in the United States, move to China. China is a country with low wages, unenforced environmental and worker safety standards. The U.S. company goes to China because of weak environmental and worker safety standards and low wages. Because they don't enforce those rules, you know what is going to happen. Products made in those countries will be made in bad conditions, and there is likely to be toxic or dangerous toys, and more likely to be contaminated food.

The U.S. companies in China then push their Chinese subcontractors to cut costs because they want more profit. So they are pushing the Chinese subcontractors to cut costs, and then those products that are imported into the United States are even more dangerous. Then the Consumer Products Safety Commission in this country—because of President Bush's decisions, we have weakened the regulatory system, so those products come in and there are not enough inspectors. The laws are weakened, so the dangerous toys and contaminated food too often ends up in our family rooms, bedrooms, and our kitchens.

Some free-trade proponents say workers and consumers should get over it, get used to it; it is globalization and there is nothing you can do about it. That is wrong.

Continuing this course will not only cost the middle class more jobs, it will cost our economy its global leadership. It will foist so much debt on our children and their children that basic economic security, basic retirement security may be reserved for the fortunate few. Certainly not the middle class. And as for the poor, just let them eat cake.

The people in Ohio, in all corners, are swimming upstream against deteriorating economic forces. One important reason for that is that Federal policymakers continue to cling to the fantasy that markets run themselves and police themselves, and as long as the rich are getting richer, wealth will trickle down, jobs will be created, and everybody is better off.

It is time to take the blinders off. To secure our economy for the future, we need to write trade rules that crack down on anticompetitive gaming. In our country, still the most powerful in the world, with the most vigorous economy, we need to write trade rules that crack down on anticompetitive gaming of the system. That is what they have done. We need trade rules that prevent dangerous products from entering our country. We need trade rules that acknowledge that destroying the environment in any country, whether it is China or the United States, is a threat to every country.

We need to take responsibility for the consequences of our inaction when it comes to trade policy. We need to take responsibility for the consequences of mistakes we have made in writing trade policy. We need to change course, and we need to do it now.

I yield the floor.

(Mr. CASEY assumed the Chair.)

RECOGNIZING ROBERT ''SARGENT'' SHRIVER

Mr. REID. Mr. President, I rise today to recognize Robert ''Sargent'' Shriver, a role model, hero, and icon. An activist, attorney, and politician, Sargent Shriver has always led by example, driven by the desire to serve those less fortunate.

Sargent Shriver's political career began in 1960, when he worked for his brother-in-law, Democratic Presidential candidate John F. Kennedy. Passionate about civil rights, Shriver was instrumental in connecting then-Senator Kennedy with Reverend Martin Luther King, Jr. And when the newly elected President established the Peace Corps in 1961, Shriver became the new agency's first director. This organization, which promotes peace and international friendship, embodies Shriver's belief in public service by young people to help the poor and the uneducated abroad and at home. In less than 6 years, Shriver developed volunteer activities in more than 55 countries with more than 14,500 volunteers.

In 1962, Sargent Shriver's wife Eunice Kennedy Shriver began ''Camp Shriver,'' a day camp for young people with physical and intellectual disabilities. ''Camp Shriver'' grew into the Special Olympics, of which Sargent Shriver later became president and chairman of the board. Special Olympics was built on Eunice and Sargent Shriver's shared dedication to expanding opportunities for disabled persons, and today brings athletic competition to 2.5 people in 165 countries.

Shriver was presented with the Franklin D. Roosevelt Freedom from Want Award in 1993, a prestigious award that acknowledges a lifetime commitment to securing the basic needs of others. On August 8, 1994, President Bill Clinton recognized Sargent Shriver's lifetime in public service with the Presidential Medal of Freedom, the United States' highest civilian honor.

Additionally, Sargent Shriver served as U.S. Ambassador to France and has directed several organizations including, Head Start, Job Corps, Community Action, Upward Bound, Foster Grandparents, and the National Center on Poverty. Today, Shriver lives in Maryland with his wife.

To tell Shriver's life story to the next generation, Emmy award-winning writer, producer and director Bruce Orenstein created a film entitled ''American Idealist: The Story of Sargent Shriver.'' The program, which

aired on the Public Broadcasting Service this past Monday, January 21, 2008, focuses on Shriver's visionary devotion to activism. By highlighting his role in the civil rights movement and the war on poverty, this powerful film will help spread Sargent Shriver's message of patriotic service.

In closing, I extend my most sincere gratitude to Robert Sargent Shriver. As a result of this film, his legacy will continue to inspire future generations of Americans.

RECOGNIZING CONGRESSMAN TOM LANTOS

Mr. REID. Mr. President, I rise today to recognize one of America's most respected and distinguished lawmakers: chairman of the House Committee on Foreign Affairs, TOM LANTOS of California.

The story of Congressman LANTOS is unique in American history, and one that serves as an inspiration to each of us. Born in Budapest, Hungary, on February 1, 1928, this young man displayed the type of intellectual precociousness characteristic of our great statesmen of the past. It was during his youth in Central Europe that Congressman LANTOS experienced great joys but also endured a most terrible tragedy.

By the time he was 16 years old, the Nazis had occupied his native Hungary, and as a result of being born into a Jewish family, Congressman LANTOS was soon taken to a forced labor camp. Through unimaginable perseverance and resolve, he survived long enough to escape and then complete the 22-mile trek to a safe house run by Swedish humanitarian Raoul Wallenberg. Sadly, like so many other Jewish families torn apart by the Holocaust, Congressman LANTOS lost his family in the ordeal.

A bright moment during these darkest of times in human history was the reunification of two childhood sweethearts. TOM and his lovely wife Annette first met as children growing up in Budapest, and they have now entered their 58th year of devoted marriage to one another.

Two years after the last shots of World War II were fired, Congressman LANTOS won a scholarship to study in the United States. Arriving in America with nothing more than a piece Hungarian salami, he began his studies at the University of Washington in Seattle, where he received a B.A. and M.A. in economics. This young academic then moved to San Francisco in 1950, where he began graduate studies at the University of California, Berkeley, eventually receiving his Ph.D. in economics.

Following three decades as a college professor in economics, TOM was elected to Congress in 1980 from the State of California. Ever since, Congressman LANTOS has enjoyed as fine a career in public service as any lawmaker of his generation. Perhaps his greatest single contribution to our cherished branch of government was his founding, along with Congressman John Edward Porter of Illinois, of the Congressional Human Rights Caucus in 1983. In the intervening quarter-century, the caucus has brought much-needed attention to the most pressing human rights crises around the world. In 1987, the caucus became the first official U.S. entity to welcome recent Congressional Gold Medal recipient, his Holiness the Dalai Lama, to the United States.

Considering Congressman LANTOS' wealth of intellect and wisdom in the field of foreign policy, the United States has been privileged to have him serve as chairman of the House Committee on Foreign Affairs for the past 12 months, where he previously served as ranking member. From demanding tougher sanctions on the Iranian government to standing up for democracy and human rights in Burma, his chairmanship has been nothing short of masterful in these most difficult of times. I can stand up here today, with the full confidence of my colleagues in the Senate, and say that American foreign policy has been greatly enriched by the contributions of Congressman LANTOS throughout his tenure in the House of Representatives.

I met TOM before I came to Washington in 1982. He is terrific in so many ways and he is devoted to his wife, children, and grandchildren. His No. 1 priority is his two beautiful daughters, 17 fantastic grandchildren, and two wonderful great-grandchildren. He loves them and loves to talk about them.

I served with Chairman LANTOS during my years as a Member of the House of Representatives and consider him a friend, as well as a leader. I shared the sadness of my fellow Senators and House Members, when Chairman LANTOS announced that he will leave the House at the end of this year. On behalf of all my friends in the Senate, I wish you and your family all the best as you continue your public service in other ways following this congressional session.

RETIREMENT OF BILL GAINER

Mr. DURBIN. Mr. President, I rise today to congratulate Bill Gainer for his many professional contributions to my home State and to wish him well as he begins a new chapter in his life. I have known Bill and his wife Gerry for over 20 years. Bill is a proud son of the southside of Chicago. He was born in Roseland to Dorothy Quinn and William Gainer, a second generation Chicago police officer. He and his six brothers and sisters went to St. Wilabroad grammar school and Bill graduated from St. Ignatius in 1958—at 16 years of age. Bill found his calling and started with Illinois Bell in 1960. The next year he joined the Army where he ran phone lines through southern Texas in the 261st Signal Construction Corps.

Starting at the top—of a telephone pole as a lineman—Bill has worked his way through every operation of Illinois Bell—construction/operations, installation/repair, marketing, network coordination–planning, and business relations. He ended up at the crossroads in a job that combined his depth of knowledge and love for the phone company with his devotion to Chicago and the labor and civic organizations that make it the greatest city in the world.

Leveraging his place in the business community with his Irish heritage, Bill became an active member in the city of Chicago and Cook County Irish Trade Missions. Mayor Richard M. Daley appointed Bill as the chairman of the Chicago Sister Cities International Program—Galway Committee in October of 2001. He has hosted mayors, Members of the Irish Parliament and business leaders to promote trade and business development between Chicago and Ireland. Bill is also the chairman of the Business Development Committee for the Cook County Irish Trade Mission to County Down and County Cork. The ever-expanding success of the South Side Irish Parade owes much to Bill. He is the Parade's emeritus chair.

Bill also has been active in many civic and nonprofit organizations. Closest to his heart are his involvement on the advisory board for Misericordia Heart of Mercy and the executive board of the Mercy Home for Boys and Girls. Bill was awarded the Misericordia Heart of Mercy Award in 2001 for his dedication and devotion to the Misericordia Home where his sister Rosemary lived many happy years. He is also the past president of the Illinois Veterans Leadership Program, an executive board member of the Irish Fellowship Club, the Chicagoland Chamber of Commerce, the Convention and Tourism Bureau, as well as the Irish American Alliance. As a result of his deep respect for law enforcement and the fact that there has been a Gainer serving continuously on the Chicago Police Department for over 100 years, Bill is an active member and strong supporter of the Hundred Club of Cook County.

Bill is the first to admit that behind all these wonderful accomplishments is his great wife Gerry, a registered nurse and his six children, Bill, Bridget, Nora, Maureen, Mary, and Shelia and four grandchildren. Since they met at Duffy's Tavern in 1964, Bill and Gerry have not only been a great team, but also a lot of fun and a wonderful example of marriage and family. I congratulate him and his family and wish them the very best.

REMEMBERING MARTIN LUTHER KING, JR.

Mr. KYL. Mr. President, on January 21, the Nation recognized the birthday of the Rev. Dr. Martin Luther King, Jr. It is important that we honor this day and that we do not let the significance of Dr. King fade from our memories, as individuals and as a nation.

I am pleased that citizens in my State of Arizona have found ways to honor Dr. King and ensure that the lessons of his legacy continue to resound among future generations. This past weekend the Senate Chaplain, Dr. Black, joined me in Phoenix for a number of events relating the King commemoration. Dr. Black preached two sermons and later delivered the keynote address at the Dr. Martin Luther King, Jr. Youth Scholarship service, a candlelight ceremony at Pilgrim Rest Baptist Church.

It is very fitting that these events took place in churches. Dr. King, after all, was a minister, and his speeches and writings invoked biblical themes and were delivered with the zeal of a fiery evangelist. Moreover, by recognizing Dr. King in a place of worship, we are reminded of the important role that religion plays in the public square.

Indeed, the events like those I attended in Phoenix highlight the importance that religious institutions play in civic life, and I believe they embody an important past of Dr. King's legacy.

Alexis de Tocqueville observed long ago that ''Freedom sees religion as the companion of its struggles and triumphs, the cradle of its infancy, and the divine source of its rights. Religion is considered as the guardian of mores, and mores are regarded as the guarantee of the laws and pledge for the maintenance of freedom itself.''

Religion is an essential underpinning to a well-ordered society and a functioning democratic republic. The Founders of our country understood that, and Dr. King did too.

In his famous ''I have a dream'' speech, Dr. King invoked the words of the Declaration of Independence. On August 28, 1963, he told the throngs who had gathered on The Mall, ''I have a dream that one day this Nation will rise up and live out the true meaning of its creed: 'We hold these truths to be self-evident: that all men are created equal.'''

King believed, as the Founders wrote in the Declaration, that we are created equal and endowed with the right to life and liberty by our Creator. King's speech could have very well been delivered to a congregation at a church instead of before thousands at the Lincoln Memorial.

In his message at the King celebration in Phoenix, Dr. Black urged the congregation to remember some will seek to destroy the dream and dreamer, but God will frustrate their plans.

These words echo what King said at the Lincoln Memorial almost 40 years ago, ''With this faith, we will be able to work together, to pray together, to struggle together, to go to jail together, to stand up for freedom together, knowing that we will be free one day.''

Mr. President, it is imperative that we as Americans understand the bond between religion and freedom, and I was pleased to attend the King celebration services this past weekend that testified to this bond.

HONORING OUR ARMED FORCES

MAJOR ANDREW OLMSTED

Mr. KENNEDY. Mr. President, on January 3, 2008, MAJ Andrew Olmsted of Northborough, MA, was killed in Iraq. He was the first American servicemember to die in Iraq this year. During his service there, he wrote a number of essays about his service that he posted on the Internet. His final essay, written in anticipation of his possible death, is an eloquent farewell that I believe will be of interest to all of us in Congress, and I ask unanimous consent that it be printed in the RECORD.

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

FINAL POST

(January 4, 2008)

''I am leaving this message for you because it appears I must leave sooner than I intended. I would have preferred to say this in person, but since I cannot, let me say it here.''

—G'Kar, Babylon 5.

''Only the dead have seen the end of war.''

—Plato.

This is an entry I would have preferred not to have published, but there are limits to what we can control in life, and apparently I have passed one of those limits. And so, like G'Kar, I must say here what I would much prefer to say in person. I want to thank Hilzoy for putting it up for me. It's not easy asking anyone to do something for you in the event of your death, and it is a testament to her quality that she didn't hesitate to accept the charge. As with many bloggers, I have a disgustingly large ego, and so I just couldn't bear the thought of not being able to have the last word if the need arose. Perhaps I take that further than most, I don't know. I hope so. It's frightening to think there are many people as neurotic as I am in the world. In any case, since I won't get another chance to say what I think, I wanted to take advantage of this opportunity. Such as it is.

''When some people die, it's time to be sad. But when other people die, like really evil people, or the Irish, it's time to celebrate.''

—Jimmy Bender, ''Greg the Bunny.''

''And maybe now it's your turn to die kicking some ass.''

—Freedom Isn't Free, Team America.

What I don't want this to be is a chance for me, or anyone else, to be maudlin. I'm dead. That sucks, at least for me and my family and friends. But all the tears in the world aren't going to bring me back, so I would prefer that people remember the good things about me rather than mourning my loss. (If it turns out a specific number of tears will, in fact, bring me back to life, then by all means, break out the onions.) I had a pretty good life, as I noted above. Sure, all things being equal I would have preferred to have more time, but I have no business complaining with all the good fortune I've enjoyed in my life. So if you're up for that, put on a little 80s music (preferably vintage 1980–1984), grab a Coke and have a drink with me. If you have it, throw 'Freedom Isn't Free' from the Team America soundtrack in; if you can't laugh at that song, I think you need to lighten up a little. I'm dead, but if you're reading this, you're not, so take a moment to enjoy that happy fact.

''Our thoughts form the universe. They always matter.''

—Citizen G'Kar, Babylon 5.

Believe it or not, one of the things I will miss most is not being able to blog any longer. The ability to put my thoughts on (virtual) paper and put them where people can read and respond to them has been marvelous, even if most people who have read my writings haven't agreed with them. If there is any hope for the long term success of democracy, it will be if people agree to listen to and try to understand their political opponents rather than simply seeking to crush them. While the blogosphere has its share of partisans, there are some awfully smart people making excellent arguments out there as well, and I know I have learned quite a bit since I began blogging. I flatter myself I may have made a good argument or two as well; if I didn't, please don't tell me. It has been a great five-plus years. I got to meet a lot of people who are way smarter than me, including such luminaries as Virginia Postrel and her husband Stephen (speaking strictly from an 'improving the species' perspective, it's tragic those two don't have kids, because they're both scary smart.), the estimable Hilzoy and Sebastian of Obsidian Wings, Jeff Goldstein and Stephen Green, the men who consistently frustrated me with their mix of wit and wisdom I could never match, and I've no doubt left out a number of people to whom I apologize. Bottom line: if I got the chance to meet you through blogging, I enjoyed it. I'm only sorry I couldn't meet more of you. In particular I'd like to thank Jim Henley, who while we've never met has been a true comrade, whose words have taught me and whose support has been of great personal value to me. I would very much have enjoyed meeting Jim.

Blogging put me in touch with an inordinate number of smart people, an exhilarating if humbling experience. When I was young, I was smart, but the older I got, the more I realized just how dumb I was in comparison to truly smart people. But, to my credit, I think, I was at least smart enough to pay attention to the people with real brains and even occasionally learn something from them. It has been joy and a pleasure having the opportunity to do this.

''It's not fair.''

''No. It's not. Death never is.''

—Captain John Sheridan and Dr. Stephen Franklin, Babylon 5.

''They didn't even dig him a decent grave.''

''Well, it's not how you're buried. It's how you're remembered.''

—Cimarron and Wil Andersen, The Cowboys.

I suppose I should speak to the circumstances of my death. It would be nice to believe that I died leading men in battle, preferably saving their lives at the cost of my own. More likely I was caught by a marksman or an IED. But if there is an afterlife, I'm telling anyone who asks that I went down surrounded by hundreds of insurgents defending a village composed solely of innocent women and children. It'll be our little secret, ok?

I do ask (not that I'm in a position to enforce this) that no one try to use my death to further their political purposes. I went to Iraq and did what I did for my reasons, not yours. My life isn't a chit to be used to bludgeon people to silence on either side. If you think the U.S. should stay in Iraq, don't drag me into it by claiming that somehow

my death demands us staying in Iraq. If you think the U.S. ought to get out tomorrow, don't cite my name as an example of someone's life who was wasted by our mission in Iraq. I have my own opinions about what we should do about Iraq, but since I'm not around to expound on them I'd prefer others not try and use me as some kind of moral capital to support a position I probably didn't support. Further, this is tough enough on my family without their having to see my picture being used in some rally or my name being cited for some political purpose. You can fight political battles without hurting my family, and I'd prefer that you did so.

On a similar note, while you're free to think whatever you like about my life and death, if you think I wasted my life, I'll tell you you're wrong. We're all going to die of something. I died doing a job I loved. When your time comes, I hope you are as fortunate as I was.

''What an idiot! What a loser!''

—Chaz Reingold, Wedding Crashers.

''Oh and I don't want to die for you, but if dying's asked of me;

I'll bear that cross with honor, 'cause freedom don't come free.''

—American Soldier, Toby Keith.

Those who know me through my writings on the Internet over the past five-plus years probably have wondered at times about my chosen profession. While I am not a Libertarian, I certainly hold strongly individualistic beliefs. Yet I have spent my life in a profession that is not generally known for rugged individualism. Worse, I volunteered to return to active duty knowing that the choice would almost certainly lead me to Iraq. The simple explanation might be that I was simply stupid, and certainly I make no bones about having done some dumb things in my life, but I don't think this can be chalked up to stupidity. Maybe I was inconsistent in my beliefs; there are few people who adhere religiously to the doctrines of their chosen philosophy, whatever that may be. But I don't think that was the case in this instance either.

As passionate as I am about personal freedom, I don't buy the claims of anarchists that humanity would be just fine without any government at all. There are too many people in the world who believe that they know best how people should live their lives, and many of them are more than willing to use force to impose those beliefs on others. A world without government simply wouldn't last very long; as soon as it was established, strongmen would immediately spring up to establish their fiefdoms. So there is a need for government to protect the people's rights. And one of the fundamental tools to do that is an army that can prevent outside agencies from imposing their rules on a society. A lot of people will protest that argument by noting that the people we are fighting in Iraq are unlikely to threaten the rights of the average American. That's certainly true; while our enemies would certainly like to wreak great levels of havoc on our society, the fact is they're not likely to succeed. But that doesn't mean there isn't still a need for an army (setting aside debates regarding whether ours is the right size at the moment). Americans are fortunate that we don't have to worry too much about people coming to try and overthrow us, but part of the reason we don't have to worry about that is because we have an army that is stopping anyone who would try.

Soldiers cannot have the option of opting out of missions because they don't agree with them: that violates the social contract. The duly-elected American government decided to go to war in Iraq. (Even if you maintain President Bush was not properly elected, Congress voted for war as well.) As a soldier, I have a duty to obey the orders of the President of the United States as long as they are Constitutional. I can no more opt out of missions I disagree with than I can ignore laws I think are improper. I do not consider it a violation of my individual rights to have gone to Iraq on orders because I raised my right hand and volunteered to join the army. Whether or not this mission was a good one, my participation in it was an affirmation of something I consider quite necessary to society. So if nothing else, I gave my life for a pretty important principle; I can (if you'll pardon the pun) live with that.

''It's all so brief, isn't it? A typical human lifespan is almost a hundred years. But it's barely a second compared to what's out there. It wouldn't be so bad if life didn't take so long to figure out. Seems you just start to get it right, and then . . . it's over.''

—Dr. Stephen Franklin, Babylon 5.

I wish I could say I'd at least started to get it right. Although, in my defense, I think I batted a solid .250 or so. Not a superstar, but at least able to play in the big leagues. I'm afraid I can't really offer any deep secrets or wisdom. I lived my life better than some, worse than others, and I like to think that the world was a little better off for my having been here. Not very much, but then, few of us are destined to make more than a tiny dent in history's Green Monster. I would be lying if I didn't admit I would have liked to have done more, but it's a bit too late for that now, eh? The bottom line, for me, is that I think I can look back at my life and at least see a few areas where I may have made a tiny difference, and massive ego aside, that's probably not too bad.

''The flame also reminds us that life is precious. As each flame is unique; when it goes out, it's gone forever. There will never be another quite like it.''

—Ambassador Delenn, Babylon 5.

I write this in part, admittedly, because I would like to think that there's at least a little something out there to remember me by. Granted, this site will eventually vanish, being ephemeral in a very real sense of the word, but at least for a time it can serve as a tiny record of my contributions to the world. But on a larger scale, for those who knew me well enough to be saddened by my death, especially for those who haven't known anyone else lost to this war, perhaps my death can serve as a small reminder of the costs of war. Regardless of the merits of this war, or of any war, I think that many of us in America have forgotten that war means death and suffering in wholesale lots. A decision that for most of us in America was academic, whether or not to go to war in Iraq, had very real consequences for hundreds of thousands of people. Yet I was as guilty as anyone of minimizing those very real consequences in lieu of a cold discussion of theoretical merits of war and peace. Now I'm facing some very real consequences of that decision; who says life doesn't have a sense of humor?

But for those who knew me and feel this pain, I think it's a good thing to realize that this pain has been felt by thousands and thousands (probably millions, actually) of other people all over the world. That is part of the cost of war, any war, no matter how justified. If everyone who feels this pain keeps that in mind the next time we have to decide whether or not war is a good idea, perhaps it will help us to make a more informed decision. Because it is pretty clear that the average American would not have supported the Iraq War had they known the costs going in. I am far too cynical to believe that any future debate over war will be any less vitriolic or emotional, but perhaps a few more people will realize just what those costs can be the next time.

This may be a contradiction of my above call to keep politics out of my death, but I hope not. Sometimes going to war is the right idea. I think we've drawn that line too far in the direction of war rather than peace, but I'm a soldier and I know that sometimes you have to fight if you're to hold onto what you hold dear. But in making that decision, I believe we understate the costs of war; when we make the decision to fight, we make the decision to kill, and that means lives and families destroyed. Mine now falls into that category; the next time the question of war or peace comes up, if you knew me at least you can understand a bit more just what it is you're deciding to do, and whether or not those costs are worth it.

''This is true love. You think this happens every day?''

—Westley, The Princess Bride.

''Good night, my love, the brightest star in my sky.''

—John Sheridan, Babylon 5.

This is the hardest part. While I certainly have no desire to die, at this point I no longer have any worries. That is not true of the woman who made my life something to enjoy rather than something merely to survive. She put up with all of my faults, and they are myriad, she endured separations again and again . . . I cannot imagine being more fortunate in love than I have been with Amanda. Now she has to go on without me, and while a cynic might observe she's better off, I know that this is a terrible burden I have placed on her, and I would give almost anything if she would not have to bear it. It seems that is not an option. I cannot imagine anything more painful than that, and if there is an afterlife, this is a pain I'll bear forever.

I wasn't the greatest husband. I could have done so much more, a realization that, as it so often does, comes too late to matter. But I cherished every day I was married to Amanda. When everything else in my life seemed dark, she was always there to light the darkness. It is difficult to imagine my life being worth living without her having been in it. I hope and pray that she goes on without me and enjoys her life as much as she deserves. I can think of no one more deserving of happiness than her.

''I will see you again, in the place where no shadows fall.''

—Ambassador Delenn, Babylon 5.

I don't know if there is an afterlife; I tend to doubt it, to be perfectly honest. But if there is any way possible, Amanda, then I will live up to Delenn's words, somehow, some way. I love you.

FURTHER CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, pursuant to section 301 of S. Con. Res. 21, I previously filed revisions to S. Con. Res. 21, the 2008 budget resolution. Those revisions were made for legislation reauthorizing the State Children's Health Insurance Program, SCHIP.

Congress cleared H.R. 3963, the Children's Health Insurance Program Reauthorization Act of 2007, on November 1, 2007. The President vetoed that legislation on December 12, 2007. Unfortunately, the House of Representatives

was unsuccessful in its attempt today to override that veto. Consequently, I am further revising the 2008 budget resolution and reversing the adjustments previously made pursuant to section 301 to the aggregates and the allocation provided to the Senate Finance Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 21 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	2,019.643
FY 2009	2,114.585
FY 2010	2,169.124
FY 2011	2,350.432
FY 2012	2,493.503
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−31.153
FY 2009	7.659
FY 2010	5.403
FY 2011	−44.118
FY 2012	−103.593
(2) New Budget Authority:	
FY 2007	2,371.470
FY 2008	2,503.226
FY 2009	2,520.727
FY 2010	2,572.750
FY 2011	2,685.528
FY 2012	2,722.688
(3) Budget Outlays:	
FY 2007	2,294.862
FY 2008	2,474.039
FY 2009	2,569.248
FY 2010	2,601.736
FY 2011	2,692.419
FY 2012	2,704.415

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,091,702
FY 2008 Outlays	1,086,944
FY 2008–2012 Budget Authority	6,067,019
FY 2008–2012 Outlays	6,057,014
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	−9,332
FY 2008 Outlays	−2,386
FY 2008–2012 Budget Authority	−49,711
FY 2008–2012 Outlays	−35,384
Revised Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,082,370
FY 2008 Outlays	1,084,558
FY 2008–2012 Budget Authority	6,017,308
FY 2008–2012 Outlays	6,021,630

LETTER TO THE U.N.

Mr. SPECTER. I ask unanimous consent that the attached letter to the Honorable Ban Ki-Moon, Secretary-General of the United Nations, dated January 17, 2008, be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, January 17, 2008.

Hon. BAN KI-MOON,
Secretary-General of the United Nations,
United Nations Headquarters, New York, NY.

DEAR SECRETARY-GENERAL: By letter dated January 2, 2008, I requested that the United Nations initiate an investigation into the assassination of former Pakistani Prime Minister Benazir Bhutto. With this letter, I am enclosing for you a copy of that letter and would appreciate a response.

After considering the matter further and watching developments, it is my view that the United Nations should organize a standing commission to investigate assassinations which would have international importance. We are seeing terrorism, supplemented by assassinations, becoming commonplace to achieve political objectives.

While a United Nations investigation into the assassination of former Prime Minister Bhutto is still something that should be done, it would obviously have been much better to have had a unit in existence which could be immediately dispatched to the scene to investigate the locale as soon as possible and to interrogate witnesses while their memories are fresh and before others might try to stop them from talking.

I would very much appreciate your response on these important matters.

Sincerely,

ARLEN SPECTER.

STATE SECRETS PROTECTION ACT

Mr. KENNEDY. Mr. President, yesterday, Senator SPECTER and I introduced the State Secrets Protection Act. I have been working on this bill with Senator SPECTER for several months, and I thank him for his commitment and leadership on this very important issue. I hope that our collaboration on this legislation will demonstrate that even the most sensitive problems can be addressed through bipartisan cooperation if we keep the interests of the Nation front-and-center and roll up our sleeves to do the work of seeking a realistic and workable solution. The State Secrets Protection Act is an essential response to a pressing need.

For years, there has been growing concern about the state secrets privilege. It is a common law privilege that lets the Government protect sensitive national security information from being disclosed as evidence in litigation. The problem is that sometimes plaintiffs may need that information to show that their rights were violated. If the privilege is not applied carefully, the Government can use it as a tool for cover up by withholding evidence that is not actually sensitive. The state secrets privilege is important, but there is a risk it will be overused and abused.

The privilege was first recognized by the Supreme Court in 1953, and it has been asserted since then by every administration, Republican and Democratic. Under the Bush administration, however, use of the state secrets privilege has dramatically increased and the harmful consequences of its irregular application by courts have become painfully clear.

Injured plaintiffs have been denied justice, courts have failed to address fundamental questions of constitutional rights and separation of powers, and confusion pervades this area of law. The Senate debate on reforming the Foreign Intelligence Surveillance Act has become far more difficult than it ought to be because many believe that if courts hear lawsuits against telecommunications companies, the courts will be unable to deal fairly and effectively with the Government's invocation of the privilege.

Studies show that the Bush administration has raised the privilege in over 25 percent more cases per year than previous administrations and has sought dismissal in over 90 percent more cases. As one scholar recently noted, this administration has used the privilege to ''seek blanket dismissal of every case challenging the constitutionality of specific, ongoing government programs'' related to its war on terrorism, and as a result, the privilege is impairing the ability of Congress and the judiciary to perform their constitutional duty to check executive power.

Another leading scholar recently found that ''in practical terms, the state secrets privilege never fails.'' Like other commentators, he concluded that ''the state secrets privilege is the most powerful secrecy privilege available to the president,'' and ''the people of the United States have suffered needlessly because the law is now a servant to executive claims of national security.''

In 1980, Congress enacted the Classified Information Procedures Act—known as CIPA—to provide Federal courts with clear statutory guidance on handling secret evidence in criminal cases. For almost 30 years, courts have effectively applied that law to make criminal trials fairer and safer. During that period, Congress has also regulated judicial review of national security materials under the Foreign Intelligence Surveillance Act and the Freedom of Information Act. Because of these laws, Federal judges regularly review and handle highly classified evidence in many types of cases.

Yet, in civil cases, litigants have been left behind. Congress has failed to provide clear rules or standards for determining whether evidence is protected by the state secrets privilege. We have failed to develop procedures that will protect injured parties and also prevent the disclosure of sensitive information. Because use of the state secrets privilege has escalated in recent years, there is an increasing need for the judiciary and the executive to have clear, fair, and safe rules.

Many have recognized the need for congressional guidance on this issue. The American Bar Association recently issued a report ''urg[ing] Congress to enact legislation governing Federal

civil cases implicating the state secrets privilege.'' The bipartisan Constitution Project found that ''legislative action [on the privilege] is essential to restore and strengthen the basic rights and liberties provided by our constitutional system of government.'' Leading constitutional scholars sent a letter to Congress emphasizing that there ''is a need for new rules designed to protect the system of checks and balances, individual rights, national security, fairness in the courtroom, and the adversary process.''

The State Secrets Protection Act we are introducing responds to this need by creating a civil version of CIPA. The act provides guidance to the Federal courts in handling assertions of the privilege in civil cases, and it restores checks and balances to this crucial area of law by placing constraints on the application of state secrets doctrine. The act will strengthen our national security by requiring judges to protect all state secrets from disclosure, and it will strengthen the rule of law by preventing misuse of the privilege and enabling more litigants to achieve justice in court.

Recognizing that state secrets must be protected, the Act enables the executive branch to avoid publicly revealing evidence if doing so might disclose a state secret. If a court finds that an item of evidence contains a state secret, or cannot be effectively separated from other evidence that contains a state secret, then the evidence is privileged and may not be released for any reason. Secure judicial proceedings and other safeguards that have proven effective under CIPA and the Freedom of Information Act will ensure that the litigation does not reveal sensitive information.

At the same time, the State Secrets Protection Act will prevent the executive branch from using the privilege to deny parties their day in court or shield illegal activity that is not actually sensitive. A recently declassified report shows that the executive branch abused the state secrets privilege in the very Supreme Court case, United States v. Reynolds (1953), that serves as the basis for the privilege today. In Reynolds, an accident report was kept out of court due to the government's claim that it would disclose state secrets. The court never even looked at the report. Now that the report has been made public, we've learned that in fact it contained no state secrets whatever but it did contain embarrassing information revealing government negligence.

In recent years, Federal courts have applied the Reynolds precedent to dismiss numerous cases—on issues ranging from torture, to extraordinary rendition, to warrantless wiretapping—without ever reviewing the evidence. Some courts have even upheld the executive's claims of state secrets when the purported secrets were publicly available, as in the case of El-Masri v. Tenet. In that case, there was extensive evidence in the public record that the plaintiff was kidnapped and tortured by the CIA on the basis of mistaken identity, but the court simply accepted at face value the Government's claim that litigation would require disclosure of state secrets. The court dismissed Mr. El-Masri's case without even evaluating the evidence or considering whether the case could be litigated on other evidence.

When Federal courts accept the executive branch's state secrets claims as absolute, our system of checks and balances breaks down. By refusing to consider key pieces of evidence, or by dismissing lawsuits outright without considering any evidence at all, courts give the executive branch the ability to violate American laws and constitutional rights without any accountability or oversight, and innocent victims are left unable to obtain justice. The kind of abuse that occurred in Reynolds will no longer be possible under the State Secrets Protection Act.

The act requires courts to examine the evidence for which the privilege is claimed, in order to determine whether the executive branch has validly invoked the privilege. The court must look at the actual evidence, not just Government affidavits about the evidence, and make its own assessment of whether information is covered by the privilege. Only after a court has considered the evidence and found that it provides a valid legal defense can it dismiss a claim on state secrets grounds.

The act also gives parties an opportunity to make a preliminary case with their own evidence, and it allows courts to develop solutions to let lawsuits proceed, such as by directing the Government to produce unclassified substitutes for secret evidence. Many of these powers are already available to courts, but they often go unused. In addition, the act draws on CIPA to include provisions for congressional reporting that will ensure an additional layer of oversight.

I am pleased that the senior Senator from Pennsylvania and I have been able to work together to produce this bill. We expect to have a hearing soon on the state secrets privilege in the Judiciary Committee under the leadership of Chairman LEAHY, who is a cosponsor of the bill and a strong supporter of state secrets reform. I look forward to a full airing of the issues and the important feedback that will come from the committee's thoughtful consideration of the legislation.

In particular, as the bill moves forward, we intend to continue to explore the possibilities for providing relief to plaintiffs who have a winning case but cannot get a trial because every piece of evidence they need is privileged. This is an extremely difficult subject, which Congress should address if we can find a fair way to do so that will also protect legitimate secrets. We will also explore other measures to make the bill stronger, such as providing expedited security clearance reviews for attorneys.

Under the State Secrets Protection Act, the Nation will be able to preserve its commitment to individual rights and the rule of law, without compromising its national defense or foreign policy. Congress has clear constitutional authority to regulate the rules of procedure and evidence for the Federal courts, and it is long past time for us to exercise this authority on such an important issue. I urge my colleagues in the Senate to pass this needed legislation as soon as possible.

Mr. SPECTER. Mr. President, I wish to discuss the State Secrets Protection Act of 2008. Senator KENNEDY and I are introducing this bipartisan bill in order to harmonize the law applicable in cases involving the executive branch's invocation of the privilege. This bill is timely for several reasons. First, the use of the privilege appears to be on the rise in the post-September 11, 2001, era, which has generated new public attention and concern about its legitimacy. Second, there is some disparity among the district and appellate court opinions analyzing the privilege, particularly as to the question of whether courts must independently review the allegedly privileged evidence. Finally, a codified test for evaluating state secrets that requires courts to review the evidence in camera—a Latin phrase meaning ''in the judge's private chambers''—will help to reassure the public that the claims are neither spurious nor intended to cover up alleged Government misconduct. With greater checks and balances and greater accountability, there is a commensurate increase in public confidence in our institutions of Government.

In view of its increasing use, inconsistent application, and public criticism, we think the time is ripe to pass legislation codifying standards on the state secrets privilege. Our bill builds upon proposals by the American Bar Association and legal scholars who have called upon Congress to legislate in this area.

Mr. President, I begin my remarks by discussing some of the historical and more recent applications of the state secrets doctrine—which have run the gamut from cases involving military aviation technology to CIA sources and methods, to extraordinary rendition and the terrorist surveillance program, or TSP.

In the 1876 case *Totten* v. *United States*, 92 U.S. 105, 1876, the Supreme Court acknowledged a privilege that barred claims between the Government and its covert agents ''in all secret employments of the government in time of war, or upon matters affecting our foreign relations, where a disclosure of the service might compromise or embarrass our government in its public duties, or endanger the person or injure the character of the agent.'' The Totten case involved a purported Civil War spy who sought to sue President

Lincoln to enforce an alleged espionage agreement. In 2005, the Court reaffirmed the holding in Totten that ''lawsuits premised on alleged espionage agreements are altogether forbidden.'' *Tenet* v. *Doe*, 544 U.S. 1, 2005.

Notwithstanding Totten, the modern state secrets privilege was first recognized by the Supreme Court in the 1953 case of *United States* v. *Reynolds*, 345 U.S. 1, 1953. Reynolds involved the Government's assertion of the military secrets privilege for an accident report discussing the crash of a B–29 bomber, which killed three civilian engineers along with six military personnel. In Reynolds, the Supreme Court set out several rules pertinent to the assertion and consideration of the state secrets privilege. For example, the Court said the privilege belongs to the Government. It can be neither claimed nor waived by a third party. The Court also held that the privilege must be asserted ''in a formal claim of privilege lodged by the head of the department which has control over the matter, after actual consideration by that officer.'' Further, ''the showing of necessity which is made will determine how far the court should probe in satisfying itself that the occasion for invoking the privilege is appropriate.'' Significantly, however, the Supreme Court held that the material in question need not necessarily be disclosed to the reviewing judge. On this point, the Reynolds Court said:

> Judicial control over the evidence in a case cannot be abdicated to the caprice of executive officers. Yet we will not go so far as to say that the court may automatically require a complete disclosure to the judge before the claim of privilege will be accepted in any case. It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate, and the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers.

Unfortunately, this limitation on judicial review ultimately led to further litigation and public skepticism when the accident report from the Reynolds case was later declassified—a result the State Secrets Protection Act seeks to avoid in future cases.

In 2003, after the documents at issue in Reynolds were declassified, one of the original plaintiffs and heirs of the others brought suit alleging that the Government had committed a ''fraud upon the court.'' I cite *Herring* v. *United States*, 424 F.3d 384 (3d Cir. 2005), cert. denied by *Herring* v. *United States*, 547 U.S. 1123, May 1, 2006. They claimed the Government had asserted the military secrets privilege for documents that did not reveal anything sensitive simply to conceal the Government's own negligence. Nevertheless, both the district court and the Third Circuit declined to reopen the case after finding that the plaintiffs could not meet the high burden for proving a claim of fraud on the court. The Third Circuit wrote:

> We further conclude that a determination of fraud on the court may be justified only by ''the most egregious misconduct directed to the court itself,'' and that it ''must be supported by clear, unequivocal and convincing evidence.'' The claim of privilege by the United States Air Force in this case can reasonably be interpreted to include within its scope information about the workings of the B–29, and therefore does not meet the demanding standard for fraud upon the court.

I cite Herring, 386–387. This ruling, however, did not end public debate on the matter. As recently as last October, the New York Times editorialized: ''[T]he Reynolds case itself is an object lesson in why courts need to apply a healthy degree of skepticism to state secrets claims. . . . When the documents finally became public just a few years ago, it became clear that the government had lied. The papers contained information embarrassing to the government but nothing to warrant top secret treatment or denying American citizens honest adjudication of their lawsuit.''

Upon learning of the Herring case, which was filed in Philadelphia, it became clear to me that codifying provisions for a court to use in ruling on state secrets cases was desirable for a number of reasons—including the added legitimacy of having a judge evaluate the validity of the claim. I think that by requiring in camera court review, we will ultimately provide parties with greater trust in the integrity of the claim and, importantly, appropriate closure.

The benefits of court review are illustrated by recent events in the Ninth Circuit. On November 16, 2007, the Ninth Circuit decided *Al-Haramain Islamic Foundation, Inc.* v. *Bush*, 507 F.3d 1190 (9th Cir. (Ca.) 2007), a case in which the plaintiffs challenged alleged surveillance of their organization under the terrorist surveillance program, TSP. The case stands out in TSP jurisprudence because the plaintiff alleged the Government had unwittingly provided proof that it was surveilling the plaintiff by inadvertently disclosing a partial transcript of phone conversations. The district court denied the Government's motion to dismiss on grounds of the state secrets privilege, but the Ninth Circuit reversed. Citing Totten and Reynolds, the Al-Haramain court acknowledged that when the very subject matter of the lawsuit is a state secret, dismissal without evaluating the claim might be appropriate. However, given all of the public disclosures concerning the TSP, the Al-Haramain court held that the subject matter of the lawsuit was not itself a state secret. Instead, the court concluded that it ''must make an independent determination whether the information is privileged.'' This is 507 F.3d at 1202. It did so by undertaking a full review of the privileged documents in camera. The Al-Haramain court described its review of the sealed document at issue and the balancing test it imposed:

> Having reviewed it in camera, we conclude that the Sealed Document is protected by the state secrets privilege, along with the information as to whether the government surveilled Al-Haramain. We take very seriously our obligation to review the documents with a very careful, indeed a skeptical, eye, and not to accept at face value the government's claim or justification of privilege. Simply saying ''military secret,'' ''national security'' or ''terrorist threat'' or invoking an ethereal fear that disclosure will threaten our nation is insufficient to support the privilege. Sufficient detail must be—and has been—provided for us to make a meaningful examination. The process of in camera review ineluctably places the court in a role that runs contrary to our fundamental principle of a transparent judicial system. It also places on the court a special burden to assure itself that an appropriate balance is struck between protecting national security matters and preserving an open court system. That said, we acknowledge the need to defer to the Executive on matters of foreign policy and national security and surely cannot legitimately find ourselves second guessing the Executive in this arena.

I cite 507 F.3d at 1203

The State Secrets Protection Act essentially codifies the Al-Haramain test by requiring courts to evaluate the assertion of a state secrets privilege in light of an in camera review of the allegedly privileged documents. I think it is highly advisable to codify both the means of asserting the privilege and the method for reviewing courts to go about resolving claims of privilege because the state secrets privilege is being asserted more frequently and the resulting decisions will benefit from more consistent procedures. Indeed, one recent study indicates that, of the approximately 89 state secrets cases adjudicated since the Supreme Court's decision in Reynolds, courts have declined to review any evidence in at least 16 cases. It is unclear whether the courts reviewed any evidence in another 16 cases, so the number could be as high as 32, or more than a third of the total. The current bill would end this practice.

Reliable statistics on the use of the state secrets privilege are somewhat difficult to come by because not all cases are reported. The Reporters' Committee for Freedom of the Press claims that, ''while the government asserted the privilege approximately 55 times in total between 1954 . . . and 2001, [the government] asserted it 23 times in the four years after Sept. 11.'' With the use of the privilege apparently on the rise, the risk of abuse also grows. As I have noted, critics argue that the Government has abused the privilege to cover up cases of malfeasance and illegal activity. They point to the aftermath of Reynolds and more recently to the case of Khaled El-Masri, whose claim that the was subject to extraordinary rendition was dismissed following the Government's successful assertion of the state secrets privilege at the district and appellate court levels. This is *El-Masri* v. *United States*, 479 F.3d 296 (4th Cir. (Va.) March 2, 2007), cert. denied, 128 S.Ct. 373 (October 9, 2007). Although the Supreme

Court declined to revisit the state secrets doctrine in the El-Masri case, there is ample cause for congressional action—both to protect legitimate secrets and ensure public confidence in the process for adjudicating such privilege claims.

The State Secrets Protection Act establishes a clear standard for application of the state secrets privilege and creates procedures for reviewing courts to follow in evaluating privilege claims. Specifically, the Kennedy-Specter State Secrets Protection Act:

Defines state secrets and codifies the standard for evaluating privilege claims: The bill defines ''state secret'' as ''any information that, if disclosed publicly, would be reasonably likely to cause significant harm to the national defense or foreign relations of the United States.'' It requires Federal courts to decide cases after ''consideration of the interests of justice and national security.''

Requires court examination of evidence subject to privilege claims: The legislation requires courts to evaluate the privilege by reviewing pertinent evidence in camera. By statutorily empowering courts to review the evidence, the bill will substantially mitigate the risk of future allegations that the Government committed ''fraud upon the court,'' as asserted by the Reynolds plaintiffs 50 years after the landmark decision.

Closes hearings on the privilege—except those involving mere legal questions: Under the legislation, hearings are presumptively held in camera but only ex parte if the court so orders.

Requires attorney security clearances: Under the bill, courts must limit participation in hearings to evaluate state secrets to attorneys with appropriate clearances. Moreover, it allows for appointment of guardians ad litem with clearances to represent parties who are absent from proceedings.

Permits the Government to produce a nonprivileged substitute: Consistent with the Classified Information Procedures Act, the bill allows for the use of nonprivileged substitutes, where possible. If the court orders the Government to provide a nonprivileged substitute and the Government declines to provide it, the court resolves fact questions involving the evidence at issue against the Government.

Protects evidence: The proposed bill incorporates the security procedures established in the Classified Information Procedures Act and permits the Chief Justice to create additional rules to safeguard state secrets evidence.

I commend the bill to all of my Senate colleagues.

HONORING MARTIN P. PAONE

Mr. FEINGOLD. Mr. President, today I wish to honor our distinguished Secretary of the Majority, Martin Paone, who announced recently his plans to leave the Senate after almost 30 years of exemplary service. During his career in the Senate, Marty has helped to guide this body as it has addressed some of the most pressing issues, and faced some of the most difficult challenges, in our Nation's history.

Marty began his career in the Congress, working in the House Post Office and the Senate Parking Office. From there, he quickly rose through the ranks to become an assistant in the Democratic cloakroom in 1979. After demonstrating his keen understanding of floor procedures, he became a member of the floor staff for the Democratic Policy Committee and later assistant secretary of the majority. In 1995, he was elected as secretary of the minority, and continued to serve in that role, and later as the secretary of the majority, for the Democratic caucus.

As we all know, the procedures of the Senate are complicated, and at times perplexing. Indeed, Americans watching us from home may wonder how we are able get our important legislative work done. Well, one of the principal reasons is that Republican and Democratic Senators alike have been able to rely on Marty's counsel when it comes to questions about the rules of the Senate. Marty possesses a vast and detailed knowledge of the history and procedures of the Senate that is possibly second only to that of our distinguished President Pro Tempore, Senator ROBERT C. BYRD. And he has a well-deserved reputation as a straight shooter. Whenever I have approached Marty with a question during my time as a Senator, I have always been able to count on him for a straight answer—even when my position may have run counter to that of my leadership.

Throughout his tenure in the Senate, Marty has also served as a steady hand, helping this Chamber through changes in our country's leadership and critical events in our Nation's history. Marty's career has been marked by five different Presidents, five Republican Senate leaders and four Democratic Senate leaders. Marty has also served during several key historic moments, from the end of the Cold War to the tragic events of September 11, 2001. It was after September 11 that Marty's extensive experience and understanding became especially important as he helped guide this body during an extremely difficult and uncertain time. That service to the Senate, and to the country, was invaluable, and I will always remember it.

I wish Marty, his wife Ruby, and their three children, Alexander, Stephanie, and T.J., all the best as Marty begins this new chapter in his life. He will be greatly missed, but he leaves behind a lasting impact that will help guide this body for years to come.

OPEN GOVERNMENT ACT

Mr. LEAHY. Mr. President, as we start a new year—and the Senate starts a new session—the American people have a new law that honors and protects their right to know. I am pleased that during the waning hours of 2007, the President signed the Leahy-Cornyn Openness Promotes Effectiveness in our National Government Act, the ''OPEN Government Act,'' S. 2488, into law—enacting the first major reforms to the Freedom of Information Act, ''FOIA'' in more than a decade.

Today, our Government is more open and accountable to the American people than it was just a year ago. With the enactment of FOIA reform legislation, the Congress has demanded and won more openness and accountability regarding the activities of the executive branch. I call on the President to vigorously and faithfully execute the OPEN Government Act, and I hope that he will fully enforce this legislation.

Sadly, the early signs from the administration are troubling. Just this week, the administration signaled that it will move the much-needed funding for the Office of Government Information Services created under the OPEN Government Act from the National Archives and Records Administration to the Department of Justice. Such a move is not only contrary to the express intent of the Congress, but it is also contrary to the very purpose of this legislation—to ensure the timely and fair resolution of American's FOIA requests. Given its abysmal record on FOIA compliance during the last 7 years, I hope that the administration will reconsider this unsound decision and enforce this law as the Congress intended.

In addition, for the first time ever under the new law implementing the recommendations of the 9/11 Commission, Federal agencies will be required to fully disclose to Congress their use of data mining technology to monitor the activities of ordinary American citizens. I am pleased that this law contains the reforms that I cosponsored last year to require data mining reporting and to strengthen the Privacy and Civil Liberties Oversight Board.

Surely all of these OPEN Government reforms are cause to celebrate. But there is much more work to be done.

During the second session of the 110th Congress, I intend to work hard to build upon these OPEN Government successes, so that we have a government that is more open and accountable to all Americans. As chairman of the Judiciary Committee, I have made oversight of the FOIA reforms contained in the OPEN Government Act one of my top priorities. I will also continue to work closely with Members on both sides of the aisle and in both Chambers to address the growing and troubling use of FOIA (b)(3) exemptions to withhold information from the American people.

As the son of a Vermont printer, I understand the great value of documenting and preserving our Nation's rich history for future generations, so that our democracy remains open and

free. Next month, I will convene an important hearing of the Judiciary Committee on the Founding Fathers Project and the effort to make the historical writings of our Nation's Founders more accessible and open to the public.

I will also work to ensure Senate passage of the Presidential Records Act Amendments of 2007, S. 886 to reverse a troubling Bush administration policy to curtail the disclosure of Presidential records. And I will continue my fight to ensure the public's right to know by urging the prompt consideration and passage of meaningful press shield legislation in the Senate.

More that two centuries ago, Patrick Henry proclaimed that ''[t]he liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them.'' I could not agree more. Open government is not a Democratic value, nor a Republican value. It is an American value and an American virtue. In this new year, at this new and historic time for our Nation, I urge all Members to join me in supporting an agenda of an open and transparent Government on behalf of all Americans.

VOTE EXPLANATION

Mr. THUNE. Mr. President, last night, due to airline flight delays in South Dakota and Minneapolis, I missed the rollcall vote on H.R. 4986, the amended version of the Department of Defense authorization bill. Had I been present for this vote, I would have voted ''yes''—similar to my vote in December when the Senate initially passed H.R. 1585, the conference report to the Department of Defense authorization bill.

EXTENDING UNEMPLOYMENT BENEFITS

Mr. HARKIN. Mr. President, I rise in support of legislation introduced this week to extend unemployment benefits temporarily as a means of stimulus. Like many of my colleagues I certainly have a list of ideas for best stimulating our struggling economy. But unemployment insurance certainly needs to be a part of the picture. I would like to thank Senator KENNEDY for so quickly introducing this bill to extend current unemployment benefits by at least 20 weeks, and by an additional 13 weeks in States experiencing especially high unemployment rates.

There are two key principles this legislation addresses. First, we need to make sure that we are prudently spending money in a way that encourages an increase in actual economic activity. Second, we need to help the people who are most hurt during difficult times. We need a combination of prudent fiscal policy and human compassion.

So first, it is just plain good sense to target people who are unemployed. They are going to spend this money immediately on food and clothing, and this money will very quickly churn in the local economy. But equally importantly, the goal of stimulating the economy should be one of improving the quality of life for Americans. The people who are in the greatest need of help, directly hurt by economic decline, are those who have lost their jobs. It only makes sense that we make their needs a priority.

I think that this period of economic difficulty also highlights the need to pass the broader unemployment reform efforts that Senator KENNEDY is spearheading. While this stimulus measure will help many people who are unemployed, we need to cover part-time workers who have lost their jobs, and make sure we are counting all recent periods of work toward unemployment eligibility and levels.

Extending unemployment benefits is regularly employed to stimulate a flagging economy, and these payments have been proven to quickly add demand to the economy. I hope that we are all in agreement that this is an essential component of any stimulus package.

ADDITIONAL STATEMENTS

RECOGNIZING GANNESTON CONSTRUCTION CORPORATION

● Ms. SNOWE. Mr. President, I wish to recognize a small business from Maine's capital city that will be honored this coming Friday for earning the Kennebec Valley Chamber of Commerce's President's Award for its outstanding contributions to the quality of life in the greater Augusta area. Ganneston Construction Corporation, a woman-owned construction business that works in both the public and private spheres, is known for its sparkling and dependable structures.

Founded early in the 1960s as a builder of solely residential units, Ganneston Construction subsequently moved into commercial construction and has continued to expand into other markets since. Presently a full-service general contractor, construction manager, and design builder, Ganneston has taken on projects of varying sizes throughout Maine, and each job is performed in a timely manner with painstaking sensitivity to that particular building's unique requirements. The firm has restored landmarks like the Lewiston Library, made renovations to the well-known Senator Inn in Augusta, and provided the Maine Veteran's Home and Down East Community Hospital in Machias with a new facility. Ganneston has completed roughly 100 projects so far this decade, with examples of its work on display in cities and towns across Maine. Because the company's 45 employees consistently produce buildings of remarkable quality, annual sales have grown from $6 million in 2001 to $15 million in 2007.

While Ganneston is to be commended for its dedication to building safe and secure structures, the community service its employees perform is what makes Ganneston so deserving of acknowledgment. Setting an inspirational example is Stacey Morrison, chief executive officer and owner of Ganneston Construction. In addition to managing the company's day-to-day operations, Mrs. Morrison makes time to serve the local area in multiple ways. She is a member of the board of Women Unlimited, a praiseworthy Maine organization that supplies women, minority, and displaced workers with the tools, training, and consistent support needed to be successful in the technical, trade, and transportation industries. Similarly, Mrs. Morrison volunteers for the Kennebec Valley United Way and was recently elected chairwoman of the chapter for 2008. Ganneston's employees have emulated Mrs. Morrison's compassion and leadership and have donated countless hours and dollars to service organizations throughout central Maine.

Ganneston Construction's record of success and service is stellar. On the one hand, Ganneston has never failed to complete a contract and continues to see its workload rise as a result of its first-rate performance. Whether constructing for the Air National Guard or the University of Maine, for shopping centers or apartment complexes, Ganneston maintains a commitment to solid craftsmanship that has helped the company earn its prestigious reputation. On the other hand, the company's officers and employees donate significant time and resources to help those in need, making good on Ganneston's value statement ''to give back to the community in which we live.'' I thank Stacey Morrison and everyone at Ganneston Construction for their hard work and determined generosity, and congratulate them on their recognition.●

TRIBUTE TO ROBERT O. ANDERSON

● Mr. BINGAMAN. Mr. President, Robert O. Anderson was not a citizen just of New Mexico, but I think it can be fairly said that he was one of those people for whom the term ''citizen of the world'' was intended.

He died in December at age 90, and his memory was honored at this past weekend services in Roswell, NM. Our State has been his home for decades. Those of us who knew him were reminded each time we talked with him how wide-ranging his interests were, and how progressive and determined a man he was. It was his leadership and willingness to take a risk that led to the discovery of oil on the North Slope of Alaska, and the pipeline that followed 7 years later.

He was a giant in the oil industry, in ranching, in business, in publishing, in politics and in environmental circles. A thoughtful and perceptive man—he warned of global warming years ago—he was a patron of the arts and of institutions devoted to study and research,

including the Aspen Institute, the Worldwatch Institute and the John Muir Institute of the Environment.

As far as I know, he never sought public office, but he certainly held positions of public trust. He was quoted as saying of his industry:

Never look back in this business. If you do, you'll lose your nerve.''

He certainly had that in common with many elected officials, including Members of this body, and Presidents of the United States, all of whom regarded him highly as did countless international leaders. He could ''walk with kings, nor lose the common touch.'' It was that ability which was a hallmark of his leadership, and was one of his most endearing and enduring qualities.

Married to Barbara Phelps Anderson for 68 years, he is survived by her, and by 7 children, 20 grandchildren and 5 great-grandchildren. Their loss is a great and one we all share in some measure.●

30TH ANNIVERSARY OF WOMEN ESCAPING A VIOLENT ENVIRONMENT

● Mrs. BOXER. Mr. President, I am pleased to recognize the 30th anniversary of one of the Capital region's most vital nonprofit agencies, Women Escaping a Violent Environment Inc., WEAVE, in Sacramento, CA. In its three decades of service, WEAVE has provided invaluable public service to victims of domestic abuse, as well as their families, and has helped to save countless lives as a result of the education, counseling, and intervention they have provided to victims of domestic abuse and sexual assault.

WEAVE was established in 1978 in Sacramento as a grassroots organization to serve survivors of domestic violence and their families by providing crisis lines and counseling services. Within the first 10 years of its establishment, WEAVE broadened its role in the community to include legal advocacy, opened a safehouse that provides emergency services to female victims of domestic violence and their children, and became a dual agency that expanded its mission to include sexual assault services. Victims are accompanied to appointments and are given emotional support, information, counseling, food and clothing.

In the next decade WEAVE recognized that employers and schools could also be part of a solution in preventing domestic abuse and sexual assault. They provided prevention education to elementary and high schools, and began their Break the Silence Campaign that increases awareness of domestic violence by educating employers and their employees to recognize signs of abuse and how to best respond. During the 1990s, WEAVE also opened a Children's Center and WEAVE Works retail clothing store that provide revenues to support their mission in the community.

Today WEAVE has 80 staff members and over 200 active volunteers in two locations, who serve over 20,000 survivors of domestic violence and sexual assault annually with intervention and counseling services, along with educating an additional 10,000 members of the community on issues of domestic violence and sexual assault. WEAVE has achieved this success through partnerships with local law enforcement, government and business leaders.

As the community and staff gather to celebrate WEAVE's 30th anniversary, I congratulate and thank the staff, volunteers and community partners of this important organization and wish them many more years of success.●

REMEMBERING KENT HAWS

● Mrs. BOXER. Mr. President, I ask my colleagues to join me in honoring the memory of a dedicated public servant, Detective Kent Haws of the Tulare County Sheriff's Department. On the afternoon of December 17, 2007, while on motor patrol in rural Tulare County, Detective Haws was killed in the line of duty while investigating a suspicious vehicle.

Detective Haws was born in Phoenix, AZ and raised in Visalia, CA. A graduate of Mt. Whitney High School and College of the Sequoias, Detective Haws served in the United States Army 10th Mountain Division before achieving his long-time goal of joining the Tulare County Sheriff's Department. For the past decade, Detective Haws dutifully served the citizens and communities of Tulare County with great commitment, integrity, and valor. Detective Haws' devotion to help others, coupled with his passion for law enforcement, enabled him to become a model member of the Tulare County Sheriff's Department.

Detective Haws is survived by his wife Frances and children Dominik, Nicholas, and Evan. Those who knew Detective Haws will always remember him as a caring, kind, and devoted family man, colleague, and friend. Detective Kent Haws served Tulare County with honor and bravery, and fulfilled his oath as an officer of the law. His contributions to public safety and dedication to law enforcement are greatly appreciated and will serve as an example of his commitment to protecting and serving the public.

We shall always be grateful for Detective Haws' heroic service and the sacrifices he made while serving the community and the people he loved.●

IN CELEBRATION OF LOUIS BURGELIN

● Mrs. BOXER. Mr. President, I am pleased and honored to pay tribute to Louis—Lou—Brosnahan Burgelin for his 65-plus years of dedicated service to the greater Vallejo community.

Born on January 20, 1916 in Vallejo, CA, to Otto and Frances Burgelin, Lou graduated from Vallejo High School in 1932 and went on to graduate from the Mare Island Naval Shipyard Apprentice School as a marine machinist.

Always eager to exceed expectations, Lou held numerous management positions throughout his career with the United States Navy, including production control manager at Norfolk Naval Shipyard, chief progressman at Mare Island, and head progressman at Hunter's Point. In addition, Lou worked his way up from charter member to national president of the Naval Civilian Manager's Association and also served as president of the Council of Naval Employee Groups, which represents all of the employees of West Coast naval shipyards.

After retiring from Federal service in 1972, Lou became the executive secretary of the Armed Services Committee of the Vallejo Chamber of Commerce, a position he held for 19 years. This was just one of many leadership positions he held in his beloved hometown, with other civic engagements including first chairman of the Vallejo Senior Citizens Center, Exalted Ruler of the Vallejo Elks Lodge, and president of the Vallejo-Napa United Way.

Lou was also actively involved with the city of Vallejo's naval landmark, Mare Island. His lobbying efforts for military construction projects on Mare Island and his efforts to maintain dredging operations necessary for shipyard operations culminated in his receipt of the Public Service Medal by the Navy's Chief of Operations.

Proving that age will not slow him down, Lou is still active in the greater Vallejo community, currently serving as president of the Vallejo Council of the Navy League of the United States, treasurer for the Salvation Army, and national legislative chair for the Vallejo NARFE Chapter 16. In addition to his ongoing civic involvement, Lou remains happily married to the former Betty Greenwell. Approaching 69 years of marriage, Lou and Betty have three children, three grandchildren, and five great-grandchildren.

When I first met Lou in the eighties, I knew he was a powerful voice for his community and he became one of my top advisors when I represented Vallejo in Congress.

After more than 65 years of continuing service to the city of Vallejo and U.S. Navy, I remain in admiration of Lou's strong sense of civic duty. Along with hundreds of his friends and admirers throughout the city of Vallejo, I wish him many more years of continued community involvement and leadership.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILLS SIGNED

Under authority of the order of January 4, 2007, the following enrolled bills, previously signed by the Speaker pro tempore of the House, were signed on December 20, 2007, during the recess of the Senate, by the President pro tempore (Mr. BYRD):

S. 2271. An act to authorize State and local governments to divest assets in companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

S. 2488. An act to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

H.R. 366. An act to designate the Department of Veterans Affairs Outpatient Clinic in Tulsa, Oklahoma, as the ''Earnest Childers Department of Veterans Affairs Outpatient Clinic''.

H.R. 3996. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 4, 2007, the Secretary of the Senate, on December 20, 2007, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mr. VAN HOLLEN) has signed the following enrolled bills and joint resolution:

H.R. 1045. An act to designate the Federal building located at 210 Walnut Street in Des Moines, Iowa, as the ''Neal Smith Federal Building''.

H.R. 2011. An act to designate the Federal building and United States courthouse located at 100 East 8th Avenue in Pine Bluff, Arkansas, as the ''George Howard, Jr. Federal Building and United States Courthouse''.

H.R. 3470. An act to designate the facility of the United States Postal Service located at 744 West Oglethorpe Highway in Hinesville, Georgia, as the ''John Sidney 'Sid' Flowers Post Office Building''.

H.R. 3569. An act to designate the facility of the United States Postal Service located at 16731 Santa Ana Avenue in Fontana, California, as the ''Beatrice E. Watson Post Office Building''.

H.R. 3571. An act to amend the Congressional Accountability Act of 1995 to permit individuals who have served as employees of the Office of Compliance to serve as Executive Director, Deputy Executive Director, or General Counsel of the Office, and to permit individuals appointed to such positions to serve one additional term.

H.R. 3690. An act to provide for the transfer of the Library of Congress police to the United States Capitol Police, and for other purposes.

H.R. 3974. An act to designate the facility of the United States Postal Service located at 797 Sam Bass Road in Round Rock, Texas, as the ''Marine Corps Corporal Steven P. Gill Post Office Building''.

H.R. 4009. An act to designate the facility of the United States Postal Service located at 567 West Nepessing Street in Lapeer, Michigan, as the ''Turrill Post Office Building''.

H.J. Res. 72. Joint resolution making further continuing appropriations for the fiscal year 2008, and for other purposes.

S. 1396. An act to authorize a major medical facility project to modernize inpatient wards at the Department of Veterans Affairs Medical Center in Atlanta, Georgia.

S. 1896. An act to designate the facility of the United States Postal Service located at 11 Central Street in Hillsborough, New Hampshire, as the ''Officer Jeremy Todd Charron Post Office''.

S. 1916. An act to amend the Public Health Service Act to modify the program for the sanctuary system for surplus chimpanzees by terminating the authority for the removal of chimpanzees from the system for research purposes.

Under the authority of the order of the Senate of January 4, 2007, the enrolled bills and joint resolution were signed on December 20, 2007, by the President pro tempore (Mr. BYRD).

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 4, 2007, the Secretary of the Senate, on December 21, 2007, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mr. VAN HOLLEN) has signed the following enrolled bills:

H.R. 660. An act to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

H.R. 4839. An act to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes.

S. 863. An act to amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

S. 2436. An act to amend the Internal Revenue Code of 1986 to clarify the term of the Commissioner of Internal Revenue.

S. 2499. An act to amend titles XVIII, XIX, and XXI of the Social Security Act to extend provisions under the Medicare, Medicaid, and SCHIP programs, and for other purposes.

Under the authority of the order of the Senate of January 4, 2007, the enrolled bills and joint resolution were signed on December 27, 2007, by the President pro tempore (Mr. BYRD).

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 4, 2007, the President pro tempore, on December 23, 2007, during the recess of the Senate, announced that he had signed the following enrolled bill:

H.R. 2764. An act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes.

Under the authority of the order of the Senate of January 4, 2007, the Secretary of the Senate, on December 24, 2007, during the recess of the Senate, received a message from the House of Representatives announcing that the enrolled bill was subsequently signed by the Speaker pro tempore (Mr. VAN HOLLEN).

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 4, 2007, the Secretary of the Senate, on January 3, 2008, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mr. VAN HOLLEN) has signed the following enrolled bill:

H.R. 2640. An act to improve the National Instant Criminal Background Check System, and for other purposes.

Under the authority of the order of the Senate of January 4, 2007, the enrolled bill was signed on January 4, 2008, by the President pro tempore (Mr. BYRD).

MESSAGE FROM THE HOUSE ON JANUARY 22, 2008

At 12:30 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4986. An act to provide for the enactment of the National Defense Authorization Act for Fiscal Year 2008, as previously enrolled, with certain modifications to address the foreign sovereign immunities provisions of title 28, United States Code, with respect to the attachment of property in certain judgements against Iraq, the lapse of statutory authorities for the payment of bonuses, special pays, and similar benefits for members of the uniformed services, and for other purposes.

H.R. 2768. An act to establish improved mandatory standards to protect miners during emergencies, and for other purposes.

H.R. 3524. An act to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4253) to improve and expand small business assistance programs for veterans of the armed forces and military reservists, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H. Res. 914. Resolution that the Clerk of the House inform the Senate that a quorum of the House is present and that the House is ready to proceed with business.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 279. Concurrent resolution providing for a conditional adjournment of the House of Representatives.

MESSAGE FROM THE HOUSE

At 3:29 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 409. An act to amend title 23, United States Code, to direct the Secretary of Transportation to establish national tunnel inspection standards for the proper safety inspection and evaluation of all highway tunnels, and for other purposes.

H.R. 3720. An act to designate the facility of the United States Postal Service located at 424 Clay Avenue in Waco, Texas, as the ''Army PFC Juan Alonso Covarrubias Post Office Building''.

H.R. 3988. An act to designate the facility of the United States Postal Service located at 3701 Altamesa Boulevard in Fort Worth, Texas, as the ''Master Sergeant Kenneth N. Mack Post Office Building''.

H.R. 4211. An act to designate the facility of the United States Postal Service located at 725 Roanoke Avenue in Roanoke Rapids, North Carolina, as the ''Judge Richard B. Allsbrook Post Office''.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 198. Concurrent resolution expressing the sense of Congress that the United States has a moral responsibility to meet the need of those persons, groups and communities that are impoverished, disadvantaged or otherwise in poverty.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3432) to establish the Commission on the Abolition of the Transatlantic Slave Trade.

The message also announced that the House of Representatives having proceeded to reconsider the bill (H.R. 3963) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 409. An act to amend title 23, United States Code, to direct the Secretary of Transportation to establish national tunnel inspection standards for the proper safety inspection and evaluation of all highway tunnels, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3720. An act to designate the facility of the United States Postal Service located at 424 Clay Avenue in Waco, Texas, as the ''Army PFC Juan Alonso Covarrubias Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3988. An act to designate the facility of the United States Postal Service located at 3701 Altamesa Boulevard in Fort Worth, Texas, as the ''Master Sergeant Kenneth N. Mack Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4211. An act to designate the facility of the United States Postal Service located at 725 Roanoke Avenue in Roanoke Rapids, North Carolina, as the ''Judge Richard B. Allsbrook Post Office''; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 198. Concurrent resolution expressing the sense of Congress that the United States has a moral responsibility to meet the needs of those persons, groups and communities that are impoverished, disadvantaged or otherwise in poverty; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 4040. An act to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on December 21, 2007, she had presented to the President of the United States the following enrolled bills:

S. 1396. An act to authorize a major medical facility project to modernize inpatient wards at the Department of Veterans Affairs Medical Center in Atlanta, Georgia.

S. 1896. An act to designate the facility of the United States Postal Service located at 11 Central Street in Hillsborough, New Hampshire, as the ''Officer Jeremy Todd Charron Post Office''.

S. 1916. An act to amend the Public Health Service Act to modify the program for the sanctuary system for surplus chimpanzees by terminating the authority for the removal of chimpanzees from the system for research purposes.

S. 2271. An act to authorize State and local governments to divest assets in companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

S. 2488. An act to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4607. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, an annual report on civil works activities for fiscal year 2006; to the Committee on Environment and Public Works.

EC–4608. A communication from the Principal Deputy Associate Administrator, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Dimethenamid; Pesticide Tolerance'' (FRL No. 8342–7) received on January 2, 2008; to the Committee on Environment and Public Works.

EC–4609. A communication from the Principal Deputy Associate Administrator, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fluroxypyr; Pesticide Tolerance'' (FRL No. 8343–2) received on January 2, 2008; to the Committee on Environment and Public Works.

EC–4610. A communication from the Principal Deputy Associate Administrator, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas'' ((RIN2050–AE78)(FRL No. 8511–5)) received on January 2, 2008; to the Committee on Environment and Public Works.

EC–4611. A communication from the Principal Deputy Associate Administrator, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Consolidated Federal Air Rule; Correction'' ((RIN2060–A045)(FRL No. 8511–7)) received on January 2, 2008; to the Committee on Environment and Public Works.

EC–4612. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Clean Air Interstate Rule Budget Trading Program'' (FRL No. 8510–3) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4613. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; North Carolina; Redesignation of the Raleigh-Durham-Chapel Hill 8-Hour Ozone Nonattainment Area to Attainment for Ozone'' (FRL No. 8510–4) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4614. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Iowa; Clean Air Mercury Rule'' (FRL No. 8510–6) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4615. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Aspergillus Flavus AF36 on Corn; Temporary Exemption From the Requirement of a Tolerance'' (FRL No. 8342–1) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4616. A communication from the Principal Deputy Associate Administrator, Office

of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Etoxazole; Pesticide Tolerance'' (FRL No. 8342–8) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4617. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Partial Removal of Direct Final Rule and Revision of the Nonroad Diesel Technical Amendments and Tier 3 Technical Relief Provision'' ((RIN2060–A037)(FRL No. 8509–9)) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4618. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: Extension of Global Laboratory and Analytical Use Exemption for Essential Class I Ozone-Depleting Substances'' ((RIN2060–AO28)(FRL No. 8510–9)) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4619. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: The 2008 Critical Use Exemption From the Phaseout of Methyl Bromide'' ((RIN2060–AO30)(FRL No. 8510–8)) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4620. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District and San Joaquin Valley Air Pollution Control District'' (FRL No . 8509–8) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4621. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Continuous Emissions Monitoring Rule for the Acid Rain Program, NOx Budget Trading Program, Clean Air Interstate Rule, and the Clean Air Mercury Rule'' ((RIN2060–AN16)(FRL No. 8511–1)) received on December 20, 2007; to the Committee on Environment and Public Works.

EC–4622. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of proposed licenses for the export of two commercial communications satellites to French Guiana; to the Committee on Foreign Relations.

EC–4623. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles relative to the application of brushless motors and cable systems to Sweden and Italy; to the Committee on Foreign Relations.

EC–4624. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed agreement for the export of defense articles to Germany for the production and support of the Paveway weapons system; to the Committee on Foreign Relations.

EC–4625. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed agreement for the export of Up-Armored High Mobility Multipurpose Wheeled Vehicles to Iraq; to the Committee on Foreign Relations.

EC–4626. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed technical assistance agreement for the export of technical data to South Korea to support the manufacture of HMPT500 Series Transmissions; to the Committee on Foreign Relations.

EC–4627. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the transfer of hardware to Greece and Israel for the manufacture of High Mobility Multipurpose Wheeled Vehicles; to the Committee on Foreign Relations.

EC–4628. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2007–286—2007–288); to the Committee on Foreign Relations.

EC–4629. A communication from the Assistant Secretary for Administration and Management, Department of Health and Human Services, transmitting, pursuant to law, an annual report relative to the Department's competitive sourcing efforts during fiscal year 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–4630. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition that was filed on behalf of workers from the Y–12 Plant in Oak Ridge, Tennessee, to be added to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–4631. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled ''Participants' Choices of TSP Funds'' (5 CFR Part 1601) received on January 2, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–4632. A communication from the President, Federal Financing Bank, transmitting, pursuant to law, the Bank's performance plan for fiscal years 2007 and 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–4633. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the Semiannual Report of the Board's Inspector General for the period of April 1, 2007 through September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4634. A communication from the President, James Madison Memorial Foundation, transmitting, pursuant to law, the Foundation's annual report for the year ending September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4635. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report relative to locality payments; to the Committee on Homeland Security and Governmental Affairs.

EC–4636. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, the Semiannual Report of the Administration's Inspector General for the period of April 1, 2007, through September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4637. A communication from the Secretary of Education, transmitting, pursuant to law, the Semiannual Report of the Department's Inspector General for the period of April 1, 2007, through September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4638. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the Semiannual Report of the Inspector General for the period from April 1, 2007, through September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4639. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to the Administration's competitive sourcing efforts during fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4640. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a semiannual report relative to the Inspector General's auditing activity; to the Committee on Homeland Security and Governmental Affairs.

EC–4641. A communication from the Federal Co-Chairman, Delta Regional Authority, transmitting, pursuant to law, a report relative to the Authority's audited financial statements for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4642. A communication from the Industry Operations Specialist, Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''U.S. Munitions Import List and Import Restrictions Applicable to Certain Countries'' (RIN1140–AA29) received on January 2, 2008; to the Committee on the Judiciary.

EC–4643. A communication from the Director of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Removal of Tobacco Products and Cigarette Papers and Tubes, Without Removal of Tax, for United States Use in Law Enforcement Activities'' (RIN1513–AA99) received on December 19, 2007; to the Committee on the Judiciary.

EC–4644. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report relative to the Commission's competitive sourcing efforts during fiscal year 2007; to the Committee on Rules and Administration.

EC–4645. A communication from the Director of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''VA Acquisition Regulation: Plain Language Rewrite'' (RIN2900–AK78) received on January 3, 2008; to the Committee on Veterans' Affairs.

EC–4646. A communication from the White House Liaison, Department of Veterans Affairs, transmitting, pursuant to law, the report of a nomination for the position of Secretary of Veterans Affairs, received on January 3, 2008; to the Committee on Veterans' Affairs.

EC–4647. A communication from the White House Liaison, Department of Veterans Affairs, transmitting, pursuant to law, the report of action on a nomination for the position of Assistant Secretary of Veterans Affairs, received on January 3, 2008; to the Committee on Veterans' Affairs.

EC–4648. A communication from the Director, Regulatory Review Group, Department

of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs; Conforming Changes'' (RIN0560–AF60) received on January 7, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4649. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs; Final Rule'' (RIN0560–AF60) received on January 7, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4650. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, a report relative to the Administration's Annual Performance Budget for fiscal year 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–4651. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (72 FR 68748) received on January 8, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–4652. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (72 FR 68750) received on January 8, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–4653. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (72 FR 67663) received on January 8, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–4654. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (72 FR 68752) received on January 8, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–4655. A communication from the Secretary, Bureau of Certification and Licensing, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Filing of Proof of Financial Responsibility'' (FMC Docket No. 07–06) received on January 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4656. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the use of Federal power allocations by Indian tribes; to the Committee on Energy and Natural Resources.

EC–4657. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Prepaid Qualified Mortgage Insurance Premiums for 2007'' (Notice 2008–15) received on January 14, 2008; to the Committee on Finance.

EC–4658. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2007 Section 832 Salvage Discount Factors'' (Rev. Proc. 2008–11) received on January 23, 2008; to the Committee on Finance.

EC–4659. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to projects that will be conducted under the Medicare Hospital Gainsharing Demonstration; to the Committee on Finance.

REPORTS OF COMMITTEES ON JANUARY 22, 2008

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 2248, An original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes (Rept. No. 110–258).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

H.R. 735. A bill to designate the Federal building under construction at 799 First Avenue in New York, New York, as the ''Ronald H. Brown United States Mission to the United Nations Building''.

S. 862. A bill to designate the Federal building located at 210 Walnut Street in Des Moines, Iowa, as the ''Neal Smith Federal Building''.

S. 1189. A bill to designate the Federal building and United States Courthouse located at 100 East 8th Avenue in Pine Bluff, Arkansas, as the ''George Howard, Jr. Federal Building and United States Courthouse''.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 2545. A bill to amend title XVIII of the Social Security Act to provide for Medicare Advantage benchmark adjustment for certain local areas with VA medical centers and for certain contiguous areas; to the Committee on Finance.

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. 2546. A bill to reduce the risks to Colorado communities and water supplies from severe wildfires, especially in areas affected by insect infestations, to provide model legislation that may be applied to other States experiencing similar insect infestations or other forest-related problems, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOND:

S. 2547. A bill to amend the Internal Revenue Code of 1986 to reduce taxes by providing an alternative determination of income tax liability for individuals, repealing the estate and gift taxes, reducing corporate income tax rates, reducing the maximum tax for individuals on capital gains and dividends to 10 percent, indexing the basis of assets for purposes of determining capital gain or loss, creating tax-free accounts for retirement savings, lifetime savings, and life skills, repealing the adjusted gross income threshold in the medical care deduction for individuals under age 65 who have no employer health coverage, and for other purposes; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 2548. A bill to provide for the payment of interest on claims paid by the United States in connection with the correction of military records when a military corrections board sets aside a conviction by court-martial; to the Committee on Armed Services.

By Mr. REID (for Mrs. CLINTON):

S. 2549. A bill to require the Administrator of the Environmental Protection Agency to establish an Interagency Working Group on Environmental Justice to provide guidance to Federal agencies on the development of criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself, Mr. JOHNSON, and Mr. CORNYN):

S. 2550. A bill to amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from collecting certain debts owed to the United States by members of the Armed Forces and veterans who die as a result of an injury incurred or aggravated on active duty in a combat zone, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself and Mr. BUNNING):

S. Res. 421. A resolution honoring the 150th anniversary of the American Printing House for the Blind; considered and agreed to.

By Mr. VITTER (for himself and Ms. LANDRIEU):

S. Res. 422. A resolution commending the Louisiana State University Tigers football team for winning the 2007 Bowl Championship Series national championship game; considered and agreed to.

By Mr. ALLARD (for himself, Mr. INOUYE, Mr. BIDEN, and Mr. SALAZAR):

S. Res. 423. A resolution seeking the return of the USS Pueblo to the United States Navy; considered and agreed to.

By Mr. REID:

S. Res. 424. A resolution electing Lula Johnson Davis, of Maryland, as Secretary for the Majority of the Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. BAUCUS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 55, a bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax.

S. 617

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 617, a bill to make the National Parks and Federal Recreational Lands Pass available at a discount to certain veterans.

S. 1003

At the request of Ms. STABENOW, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1003, a bill to amend title XVIII of the Social Security Act to improve access to emergency medical services and the quality and efficiency of care furnished in emergency departments of hospitals and critical access hospitals by establishing a bipartisan commission to examine factors that affect the effective

delivery of such services, by providing for additional payments for certain physician services furnished in such emergency departments, and by establishing a Centers for Medicare & Medicaid Services Working Group, and for other purposes.

S. 1172

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1172, a bill to reduce hunger in the United States.

S. 1200

At the request of Mr. DORGAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1200, a bill to amend the Indian Health Care Improvement Act to revise and extend the Act.

S. 1335

At the request of Mr. INHOFE, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1335, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States, and for other purposes.

S. 1361

At the request of Mr. CONRAD, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1361, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for the depreciation of certain leasehold improvements and to modify the depreciation rules relating to such leasehold improvements for purposes of computing earnings and profits.

S. 1668

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1668, a bill to assist in providing affordable housing to those affected by the 2005 hurricanes.

S. 1733

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1733, a bill to authorize funds to prevent housing discrimination through the use of nationwide testing, to increase funds for the Fair Housing Initiatives Program, and for other purposes.

S. 1921

At the request of Mr. WEBB, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1921, a bill to amend the American Battlefield Protection Act of 1996 to extend the authorization for that Act, and for other purposes.

S. 2136

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2136, a bill to address the treatment of primary mortgages in bankruptcy, and for other purposes.

S. 2170

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2170, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of qualified restaurant property as 15-year property for purposes of the depreciation deduction.

S. 2181

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2181, a bill to amend title XVIII of the Social Security Act to protect Medicare beneficiaries' access to home health services under the Medicare program.

S. 2215

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2215, a bill to amend the Homeland Security Act of 2002 to establish the Protective Security Advisor Program Office.

S. 2252

At the request of Mr. COLEMAN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2252, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for host families of foreign exchange and other students from $50 per month to $200 per month, and for other purposes.

S. 2292

At the request of Ms. COLLINS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2292, a bill to amend the Homeland Security Act of 2002, to establish the Office for Bombing Prevention, to address terrorist explosive threats, and for other purposes.

S. 2337

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2337, a bill to amend the Internal Revenue Code of 1986 to allow long-term care insurance to be offered under cafeteria plans and flexible spending arrangements and to provide additional consumer protections for long-term care insurance.

S. 2367

At the request of Mr. JOHNSON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2367, a bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs, and for other purposes.

S. 2426

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 2426, a bill to provide for congressional oversight of United States agreements with the Government of Iraq.

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 2426, supra.

S. 2433

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 2433, a bill to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than $1 per day.

S. 2469

At the request of Mr. INOUYE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2469, a bill to amend the Communications Act of 1934 to prevent the granting of regulatory forbearance by default.

S. 2498

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 2498, a bill to authorize the minting of a coin to commemorate the 400th anniversary of the founding of Santa Fe, New Mexico, to occur in 2010.

S. 2534

At the request of Mr. BAYH, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2534, a bill to designate the facility of the United States Postal Service located at 2650 Dr. Martin Luther King Jr. Street, Indianapolis, Indiana, as the ''Julia M. Carson Post Office Building''.

S. 2544

At the request of Mr. KENNEDY, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2544, a bill to provide for a program of temporary extended unemployment compensation.

S.J. RES. 27

At the request of Mrs. DOLE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S.J. Res. 27, a joint resolution proposing an amendment to the Constitution of the United States relative to the line item veto.

AMENDMENT NO. 3857

At the request of Mrs. FEINSTEIN, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Nebraska (Mr. HAGEL) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of amendment No. 3857 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3858

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 3858 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3862

At the request of Mr. LEAHY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 3862 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3863

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of amendment No. 3863 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for Mrs. CLINTON):

S. 2549. A bill to require the Administrator of the Environmental Protection Agency to establish an Interagency Working Group on Environmental Justice to provide guidance to Federal agencies on the development of criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations, and for other purposes; to the Committee on Environment and Public Works.

Mrs. CLINTON, Mr. President, today I rise to introduce the Environmental Justice Renewal Act, legislation to address the issue of environmental racism that is faced by far too many Americans today.

In our country, we have communities predominantly racial and ethnic minority and low-income communities in which the air is unsafe to breathe, the water unfit to drink, the schools unsafe places to learn.

A 2005 Associated Press analysis of Environmental Protection Agency, EPA, air data found that African Americans were 79 percent more likely than their white counterparts to live in an area where the levels of air pollution posed health risks. About half of lower-income homes in our Nation are located within a mile of factories that report toxic emissions to the EPA. Hispanic and African-American children have lead poisoning rates that are roughly double that of their white counterparts. The evidence clearly documents the disproportionate impact of pollution faced by minority and low-income populations.

For more than a quarter-century, activists have been working to address this disparity in exposure. The work of residents in Warren County, NC, in protesting the placement of a toxic waste site in a predominantly African-American community sparked the modern-day environmental justice movement. Since that time, individuals in all parts of the United States have spoken out about the conditions in their own neighborhoods, and have joined together with schools, with churches, and with local organizations to create positive change in their communities. But they cannot act alone. The Federal Government has a clear role in reducing and eliminating the disparate pollution burden placed upon racial and ethnic minorities and low-income populations.

This role has been acknowledged by the Federal Government by individuals on both sides of the aisle. Under the first Bush administration, the EPA released several reports on what was then known as environmental equity, now called environmental justice. President Clinton promulgated Executive Order 12898, titled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' which directed federal agencies to account for the ways in which their activities would impact low-income and minority communities. The Federal Government took action to ensure that environmental justice was part of the mission of its agencies.

But under the current Bush administration, the EPA has not lived up to its motto ''to protect human health and the environment.'' Because of their inaction on environmental justice, too many minority and low-income Americans lack equal access to protections that safeguard health, well being, and potential of children and families.

A 2004 report from the EPA's Office of the Inspector General found the following: ''EPA has not fully implemented Executive Order 12898 nor consistently integrated environmental justice into its day-to-day operations.''

In 2005, the Government Accountability Office released a report concluding that the agency has failed to consider environmental justice in making rules that protect families from environmental degradation and pollution.

In 2006, the Office of the Inspector General released another report on the EPA's environmental justice record, concluding that EPA senior management had not ''sufficiently directed program and regional offices to conduct environmental justice reviews.''

Earlier this year, the United Church of Christ released a report, Toxic Wastes and Race at Twenty, which stated: ''Environmental Justice faltered and became invisible at the EPA under the George W. Bush Administration.''

The Environmental Justice Renewal Act will address the rollbacks that have taken place during this Administration, and once again focus federal attention and resources on environmental justice.

It will revitalize the Interagency Working Group, IWG, on Environmental Justice, codifying the IWG and requiring biennial assessments of their efforts by the Government Accountability Office, to ensure that all agencies are completing goals and following timelines identified in each agency's environmental justice strategy.

It will establish new and expand current grant programs. With this additional funding, community groups can address the complicated health, environmental, and economic components of the pollution problems in their neighborhoods. The legislation will help states, tribes and territories develop and implement environmental justice strategies and policies. It will strengthen the technical assistance available to communities, by developing web-based Environmental Justice Clearinghouse.

This bill will increase the number of federal employees who have received environmental justice training, and who are able to incorporate environmental justice into their daily activities, such as permit review. In addition, it would establish a training program for community members modeled after the existing Superfund training programs to help affected individuals gain the skills needed to identify and monitor environmental concerns in their local areas.

Finally, the bill will increase public awareness of and participation in environmental justice activities, requiring the EPA to routinely hold community-based outreach meetings and ensuring increased interaction with the National Environmental Justice Advisory Committee, which represents stakeholders and impacted communities. It will also establish the position of Environmental Justice Ombudsman at the EPA, in order to receive, review, and process comments about the environmental justice work of the agency.

Groups supporting the legislation include the Sierra Club, ReGenesis, the Center on Race, Poverty and the Environment, Earthjustice, the Indigenous Environmental Network, and the Lawyers' Committee for Civil Rights Under Law.

We have neglected this issue for far too long, and it is time to once again ensure that the federal government works to reduce and eliminate these disparities that exist in our minority and low-income communities. I look forward to joining my colleagues in the Senate to get this enacted into law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 421—HONORING THE 150TH ANNIVERSARY OF THE AMERICAN PRINTING HOUSE FOR THE BLIND

Mr. MCCONNELL (for himself and Mr. BUNNING) submitted the following resolution; which was considered and agreed to:

S. RES. 421

Whereas the American Printing House for the Blind was chartered in 1858 in Louisville, Kentucky by the General Assembly of Kentucky through An Act to Establish the American Printing House for the Blind, in response to a growing national need for books and educational aids for blind students;

Whereas Louisville, Kentucky was chosen as the best city in which to establish a national publishing house to print books in raised letters due to its central location in the country in 1858 and its efficient distribution system;

Whereas the 45th Congress passed an Act to promote the education of the blind in 1879 designating the American Printing House for the Blind as the official national source of textbooks and educational aids for legally blind students below college level throughout the country, and Congress appropriates Federal funds to the American Printing House for the Blind annually for this purpose;

Whereas, for 150 years, the American Printing House for the Blind has identified the unique needs of people who are blind and visually impaired and has developed, produced, and distributed educational materials in Braille, large print, and enlarged print throughout the United States;

Whereas the American Printing House for the Blind serves more than 58,000 blind and visually impaired Americans each year; and

Whereas the American Printing House for the Blind each year attracts visitors from across the country and around the world to learn about the history of the education of the blind and to exchange information on the evolving needs of the population it serves: Now, therefore, be it

Resolved, That the Senate—

(1) honors the 150th anniversary of the establishment of the American Printing House for the Blind in Louisville, Kentucky, and

(2) recognizes the important role the American Printing House for the Blind has played in the education of blind and visually impaired students throughout the United States.

SENATE RESOLUTION 422—COMMENDING THE LOUISIANA STATE UNIVERSITY TIGERS FOOTBALL TEAM FOR WINNING THE 2007 BOWL CHAMPIONSHIP SERIES NATIONAL CHAMPIONSHIP GAME

Mr. VITTER (for himself and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 422

Whereas the Louisiana State University Tigers football team won the 2007 Bowl Championship Series national championship game, defeating The Ohio State University by a score of 38 to 24 at the Louisiana Superdome in New Orleans, Louisiana, on January 7, 2008;

Whereas the Louisiana State University football team won the Southeastern Conference Championship on December 1, 2007, defeating the University of Tennessee by a score of 21 to 14 in the championship game at the Georgia Dome in Atlanta, Georgia;

Whereas the Louisiana State University football team won 12 games during the 2007 season;

Whereas the Louisiana State University football team won 7 games against nationally ranked opponents during the 2007 season;

Whereas the Louisiana State University football team set a total of 12 school offensive records during the 2007 season including 541 points scored, averaging 38.6 points per game and 6,152 yards in total offense;

Whereas Craig Steltz was named first-team All-American and led the Southeastern Conference in interceptions;

Whereas defensive tackle Glenn Dorsey was awarded the Bronko Nagurski Trophy, the Rotary Lombardi Trophy, the Outland Trophy, and the Ronnie Lott Trophy, making him the most honored defensive player in Louisiana State University history;

Whereas quarterback Matt Flynn threw 21 touchdown passes during the 2007 season, including a career-high record of 4 touchdowns in the Bowl Championship Series national championship game;

Whereas running back Jacob Hester rushed for 1,103 yards during the 2007 season, scoring 12 touchdowns, and completed his collegiate football career of 364 carries without fumbling or turning over the football;

Whereas Louisiana State University head coach Les Miles has led the Tiger football program to 34 wins, 20 Southeastern Conference victories, 14 wins over nationally ranked opponents, and 3 double-digit win seasons as head coach; and

Whereas Louisiana State University is the first team to win 2 Bowl Championship Series national championship titles, having won 2 titles in 5 years: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Louisiana State University Tigers football team for winning the 2007 Bowl Championship Series national championship game;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the Louisiana State University football team during the 2007 football season;

(3) congratulates the citizens of Louisiana, the Louisiana State University community, and fans of Tiger football; and

(4) requests the Secretary of the Senate to transmit an enrolled copy of this resolution to Louisiana State University for appropriate display.

SENATE RESOLUTION 423—SEEKING THE RETURN OF THE USS PUEBLO TO THE UNITED STATES NAVY

Mr. ALLARD (for himself, Mr. INOUYE, Mr. BIDEN, and Mr. SALAZAR) submitted the following resolution; which was considered and agreed to:

S. RES. 423

Whereas the USS Pueblo, which was attacked and captured by the Navy of North Korea on January 23, 1968, was the first ship of the United States Navy to be hijacked on the high seas by a foreign military force in more than 150 years;

Whereas 1 member of the USS Pueblo crew, Duane Hodges, was killed in the assault, while the other 82 crew members were held in captivity, often under inhumane conditions, for 11 months;

Whereas the USS Pueblo, an intelligence collection auxiliary vessel, was operating in international waters at the time of the capture, and therefore did not violate the territorial waters of North Korea;

Whereas the capture of the USS Pueblo resulted in no reprisals against the Government or people of North Korea and no military action at any time; and

Whereas the USS Pueblo, though still the property of the United States Navy, has been retained by the Government of North Korea for 40 years, was subjected to exhibition in the North Korean cities of Wonsan and Hungham, and is now on display in Pyongyang, the capital city of North Korea: Now, therefore, be it

Resolved, That the Senate—

(1) desires the return of the USS Pueblo to the United States Navy;

(2) would welcome the return of the USS Pueblo as a goodwill gesture from the North Korean people to the American people; and

(3) directs the Secretary of the Senate to transmit copies of this resolution to the President, the Secretary of Defense, and the Secretary of State.

SENATE RESOLUTION 424—ELECTING LULA JOHNSON DAVIS, OF MARYLAND, AS SECRETARY FOR THE MAJORITY OF THE SENATE

Mr. REID submitted the following resolution; which was considered and agreed to:

S. RES. 424

Resolved, that Lula Johnson Davis, of Maryland, be and she is hereby, elected Secretary for the Majority of the Senate.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3901. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table.

SA 3902. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3903. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3904. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table.

SA 3905. Mr. SPECTER (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table.

SA 3906. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3901. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, line 4, strike ''2013.'' and insert the following: ''2010. Notwithstanding any other provision of this Act, the transitional procedures under paragraphs (2)(B) and (3)(B) of section 302(c) shall apply to any order, authorization, or directive, as the case may be, issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by this Act, in effect on December 31, 2010.''.

SA 3902. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act

of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PREVENTION AND DETERRENCE OF TERRORIST SUICIDE BOMBINGS.

(a) IN GENERAL.—

(1) OFFENSE OF REWARDING OR FACILITATING INTERNATIONAL TERRORIST ACTS.—

(A) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339E. Providing material support to international terrorism

''(a) DEFINITIONS.—In this section:

''(1) The term 'facility of interstate or foreign commerce' has the same meaning as in section 1958(b)(2).

''(2) The term 'international terrorism' has the same meaning as in section 2331.

''(3) The term 'material support or resources' has the same meaning as in section 2339A(b).

''(4) The term 'perpetrator of an act' includes any person who—

''(A) commits the act;

''(B) aids, abets, counsels, commands, induces, or procures its commission; or

''(C) attempts, plots, or conspires to commit the act.

''(5) The term 'serious bodily injury' has the same meaning as in section 1365.

''(b) PROHIBITION.—Whoever, in a circumstance described in subsection (c), provides, or attempts or conspires to provide, material support or resources to the perpetrator of an act of international terrorism, or to a family member or other person associated with such perpetrator, with the intent to facilitate, reward, or encourage that act or other acts of international terrorism, shall be fined under this title, imprisoned for any term of years or for life, or both, and, if death results, shall be imprisoned for any term of years not less than 10 or for life.

''(c) JURISDICTIONAL BASES.—A circumstance referred to in subsection (b) is that—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense involves the use of the mails or a facility of interstate or foreign commerce;

''(3) an offender intends to facilitate, reward, or encourage an act of international terrorism that affects interstate or foreign commerce or would have affected interstate or foreign commerce had it been consummated;

''(4) an offender intends to facilitate, reward, or encourage an act of international terrorism that violates the criminal laws of the United States;

''(5) an offender intends to facilitate, reward, or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of the United States Government;

''(6) an offender intends to facilitate, reward, or encourage an act of international terrorism that occurs in part within the United States and is designed to influence the policy or affect the conduct of a foreign government;

''(7) an offender intends to facilitate, reward, or encourage an act of international terrorism that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions) while that property is outside of the United States;

''(8) the offense occurs in whole or in part within the United States, and an offender intends to facilitate, reward or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of a foreign government; or

''(9) the offense occurs in whole or in part outside of the United States, and an offender is a national of the United States, a stateless person whose habitual residence is in the United States, or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions).''.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) TABLE OF SECTIONS.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339D. Receiving military-type training from a foreign terrorist organization.

''2339E. Providing material support to international terrorism.''.

(ii) OTHER AMENDMENT.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting ''2339E (relating to providing material support to international terrorism),'' before ''or 2340A (relating to torture)''.

(2) INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT TO TERRORISTS.—

(A) PROVIDING MATERIAL SUPPORT TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a) of title 18, United States Code, is amended by striking ''15 years'' and inserting ''30 years''.

(B) PROVIDING MATERIAL SUPPORT OR RESOURCES IN AID OF A TERRORIST CRIME.—Section 2339A(a) of title 18, United States Code, is amended by striking ''imprisoned not more than 15 years'' and all that follows through ''life.'' and inserting ''imprisoned for any term of years or for life, or both, and, if the death of any person results, shall be imprisoned for any term of years not less than 10 or for life.''.

(C) RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.—Section 2339D(a) of title 18, United States Code, is amended by striking ''ten years'' and inserting ''25 years''.

(D) ADDITION OF ATTEMPTS AND CONSPIRACIES TO AN OFFENSE RELATING TO MILITARY TRAINING.—Section 2339D(a) of title 18, United States Code, is amended by inserting '', or attempts or conspires to receive,'' after ''receives''.

(b) TERRORIST MURDERS, KIDNAPPINGS, AND ASSAULTS.—

(1) PENALTIES FOR TERRORIST MURDER AND MANSLAUGHTER.—Section 2332(a) of title 18, United States Code, is amended—

(A) in paragraph (1), by striking '', punished by death'' and all that follows and inserting ''and punished by death or imprisoned for life;''; and

(B) in paragraph (2), by striking ''ten years'' and inserting ''30 years''.

(2) ADDITION OF OFFENSE OF TERRORIST KIDNAPPING.—Section 2332 of title 18, United States Code, is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following:

''(c) KIDNAPPING.—Whoever outside the United States unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away, or attempts or conspires to seize, confine, inveigle, decoy, kidnap, abduct or carry away, a national of the United States shall be fined under this title and imprisoned for any term of years or for life.''.

(3) ADDITION OF SEXUAL ASSAULT TO DEFINITION OF OFFENSE OF TERRORIST ASSAULT.—Section 2332(d) of title 18, United States Code, as redesignated by paragraph (2) of this subsection, is amended—

(A) in paragraph (1), by inserting ''(as defined in section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242)'' after ''injury'';

(B) in paragraph (2), by inserting ''(as defined in section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242)'' after ''injury''; and

(C) in the matter following paragraph (2), by striking ''or imprisoned'' and all that follows and inserting ''and imprisoned for any term of years not less than 30 or for life.''.

(c) TERRORIST HOAXES AGAINST FAMILIES OF UNITED STATES SERVICEMEN.—

(1) HOAX STATUTE.—Section 1038 of title 18, United States Code, is amended—

(A) in subsections (a)(1) and (b), by inserting ''or any other offense listed under section 2332b(g)(5)(B) of this title'' after ''title 49,''; and

(B) in subsection (a)(2)—

(i) in subparagraph (A), by striking '', imprisoned not more than 5 years, or both'' and inserting ''and imprisoned for not less than 2 years nor more than 10 years'';

(ii) in subparagraph (B), by striking '', imprisoned not more than 20 years, or both'' and inserting ''and imprisoned for not less than 5 years nor more than 25 years''; and

(iii) in subparagraph (C), by striking '', imprisoned for any term of years or for life, or both'' and inserting ''and imprisoned for any term of years not less than 10 or for life''.

(2) ATTACKS ON UNITED STATES SERVICEMEN.—

(A) IN GENERAL.—Chapter 67 of title 18, United States Code, is amended by adding at the end the following:

''§ 1389. Prohibition on attacks on United States servicemen on account of service

''(a) IN GENERAL.—Whoever assaults, batters, or knowingly destroys or injures the property of a United States serviceman or of a member of the immediate family of a United States serviceman, on account of the military service of that serviceman or status of that individual as a United States serviceman, or who attempts or conspires to do so, shall—

''(1) in the case of a simple assault, or destruction or injury to property in which the damage or attempted damage to such property is not more than $500, be fined under this title in an amount not less than $500 and imprisoned not more than 2 years;

''(2) in the case of destruction or injury to property in which the damage or attempted damage to such property is more than $500, be fined under this title in an amount not less than $1000 and imprisoned not less than 90 days nor more than 10 years; and

''(3) in the case of a battery, or an assault resulting in bodily injury, be fined under this title in an amount not less than $2500 and imprisoned not less than 2 years nor more than 30 years.

''(b) EXCEPTION.—This section shall not apply to a person who is subject to the Uniform Code of Military Justice.

''(c) DEFINITION.—In this section, the term 'United States serviceman'—

''(1) means a member of the Armed Forces, as that term is defined in section 1388; and

''(2) includes a former member of the Armed Forces during the 5-year period beginning on the date of the discharge from the Armed Forces of that member of the Armed Forces.''.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 67 of title 18, United States Code, is amended by adding at the end the following:

''1389. Prohibition on attacks on United States servicemen on account of service.''.

(3) THREATENING COMMUNICATIONS.—

(A) MAILED WITHIN THE UNITED STATES.—Section 876 of title 18, United States Code, is amended by adding at the end the following:

''(e) For purposes of this section, the term 'addressed to any other person' includes an individual (other than the sender), a corporation or other legal person, and a government or agency or component thereof.''.

(B) MAILED TO A FOREIGN COUNTRY.—Section 877 of title 18, United States Code, is amended by adding at the end the following:

''For purposes of this section, the term 'addressed to any person' includes an individual, a corporation or other legal person, and a government or agency or component thereof.''.

(d) DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this section, is amended by adding at the end the following:

''§ 2339F. Denial of Federal benefits to terrorists

''(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

''(b) FEDERAL BENEFIT DEFINED.—In this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, as amended by this section, is amended by adding at the end the following:

''Sec. 2339F. Denial of Federal benefits to terrorists.''.

(e) INVESTIGATION OF TERRORIST CRIMES.—

(1) NONDISCLOSURE OF FISA INVESTIGATIONS.—The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting ''(other than in proceedings or other civil matters under the immigration laws, as that term is defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))'' after ''authority of the United States'':

(A) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(B) Subsections (d), (f), and (g) of section 305 (50 U.S.C. 1825).

(C) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

(2) MULTIDISTRICT SEARCH WARRANTS IN TERRORISM INVESTIGATIONS.—Rule 41(b)(3) of the Federal Rules of Criminal Procedure is amended to read as follows:

''(3) a magistrate judge—in an investigation of—

''(A) a Federal crime of terrorism (as defined in section 2332b(g)(g) of title 18, United States Code); or

''(B) an offense under section 1001 or 1505 of title 18, United States Code, relating to information or purported information concerning a Federal crime of terrorism (as defined in section 2332b(g)(5) of title 18, United States Code)—having authority in any district in which activities related to the Federal crime of terrorism or offense may have occurred, may issue a warrant for a person or property within or outside that district.''.

(3) INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN TERRORISM CASES.—Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking ''8 years'' and inserting ''10 years''.

(f) IMPROVEMENTS TO THE CLASSIFIED INFORMATION PROCEDURES ACT.—

(1) INTERLOCUTORY APPEALS UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.—Section 7(a) of the Classified Information Procedures Act (18 U.S.C. App.) is amended by adding at the end ''The Government's right to appeal under this section applies without regard to whether the order appealed from was entered under this Act.''.

(2) EX PARTE AUTHORIZATIONS UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.—Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(A) in the second sentence—

(i) by striking ''may'' and inserting ''shall''; and

(ii) by striking ''written statement to be inspected'' and inserting ''statement to be made ex parte and to be considered''; and

(B) in the third sentence—

(i) by striking ''If the court enters an order granting relief following such an ex parte showing, the'' and inserting ''The''; and

(ii) by inserting '', as well as any summary of the classified information the defendant seeks to obtain,'' after ''text of the statement of the United States''.

(3) APPLICATION OF CLASSIFIED INFORMATION PROCEDURES ACT TO NONDOCUMENTARY INFORMATION.—Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(A) in the section heading, by inserting '', AND ACCESS TO,'' after ''OF'';

(B) by inserting ''(a) DISCOVERY OF CLASSIFIED INFORMATION FROM DOCUMENTS.—'' before the first sentence; and

(C) by adding at the end the following:

''(b) ACCESS TO OTHER CLASSIFIED INFORMATION.—

''(1) If the defendant seeks access through deposition under the Federal Rules of Criminal Procedure or otherwise to non-documentary information from a potential witness or other person which he knows or reasonably believes is classified, he shall notify the attorney for the United States and the district court in writing. Such notice shall specify with particularity the classified information sought by the defendant and the legal basis for such access. At a time set by the court, the United States may oppose access to the classified information.

''(2) If, after consideration of any objection raised by the United States, including any objection asserted on the basis of privilege, the court determines that the defendant is legally entitled to have access to the information specified in the notice required by paragraph (1), the United States may request the substitution of a summary of the classified information or the substitution of a statement admitting relevant facts that the classified information would tend to prove.

''(3) The court shall permit the United States to make its objection to access or its request for such substitution in the form of a statement to be made ex parte and to be considered by the court alone. The entire text of the statement of the United States, as well as any summary of the classified information the defendant seeks to obtain, shall be sealed and preserved in the records of the court and made available to the appellate court in the event of an appeal.

''(4) The court shall grant the request of the United States to substitute a summary of the classified information or to substitute a statement admitting relevant facts that the classified information would tend to prove if it finds that the summary or statement will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

''(5) A defendant may not obtain access to classified information subject to this subsection except as provided in this subsection. Any proceeding, whether by deposition under the Federal Rules of Criminal Procedure or otherwise, in which a defendant seeks to obtain access to such classified information not previously authorized by a court for disclosure under this subsection must be discontinued or may proceed only as to lines of inquiry not involving such classified information.''.

SA 3903. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, between lines 12 and 13 insert the following:

''(3) EXCEPTION.—Paragraph (2) shall not apply to an acquisition by an electronic, mechanical, or other surveillance device outside the United States if a warrant would not be required if such acquisition were conducted outside the United States for law enforcement purposes.

''(4) PROCEDURES.—

SA 3904. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 196, line 15, insert '', including programs to provide services using video or electronic delivery methods,'' after ''trust lands''.

SA 3905. Mr. SPECTER (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, strike line 5 and all that follows through page 48, line 21, and insert the following:

(6) FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The term ''Foreign Intelligence Surveillance Court'' means the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

SEC. 202. SUBSTITUTION OF THE UNITED STATES IN CERTAIN ACTIONS.

(a) IN GENERAL.—

(1) CERTIFICATION.—Notwithstanding any other provision of law, a Federal or State court shall substitute the United States for an electronic communication service provider with respect to any claim in a covered civil action as provided in this subsection, if the Attorney General certifies to that court that—

(A) with respect to that claim, the assistance alleged to have been provided by the electronic communication service provider was—

(i) provided in connection with an intelligence activity involving communications that was—

(I) authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007; and

(II) designed to detect or prevent a terrorist attack, or activities in preparation for a terrorist attack, against the United States; and

(ii) described in a written request or directive from the Attorney General or the head of an element of the intelligence community (or the deputy of such person) to the electronic communication service provider indicating that the activity was—

(I) authorized by the President; and

(II) determined to be lawful; or

(B) the electronic communication service provider did not provide the alleged assistance.

(2) SUBSTITUTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), and subject to subparagraph (C), upon receiving a certification under paragraph (1), a Federal or State court shall—

(i) substitute the United States for the electronic communication service provider as the defendant as to all claims designated by the Attorney General in that certification, consistent with the procedures under rule 25(c) of the Federal Rules of Civil Procedure, as if the United States were a party to whom the interest of the electronic communication service provider in the litigation had been transferred; and

(ii) as to that electronic communication service provider—

(I) dismiss all claims designated by the Attorney General in that certification; and

(II) enter a final judgment relating to those claims.

(B) CONTINUATION OF CERTAIN CLAIMS.—If a certification by the Attorney General under paragraph (1) states that not all of the alleged assistance was provided under a written request or directive described in paragraph (1)(A)(ii), the electronic communication service provider shall remain as a defendant.

(C) DETERMINATION.—

(i) IN GENERAL.—Substitution under subparagraph (A) shall proceed only after a determination by the Foreign Intelligence Surveillance Court that—

(I) the written request or directive from the Attorney General or the head of an element of the intelligence community (or the deputy of such person) to the electronic communication service provider under paragraph (1)(A)(ii) complied with section 2511(2)(a)(ii)(B) of title 18, United States Code;

(II) the assistance alleged to have been provided was undertaken by the electronic communication service provider acting in good faith and pursuant to an objectively reasonable belief that compliance with the written request or directive under paragraph (1)(A)(ii) was permitted by law; or

(III) the electronic communication service provider did not provide the alleged assistance.

(ii) CERTIFICATION.—If the Attorney General submits a certification under paragraph (1), the court to which that certification is submitted shall—

(I) immediately certify the questions described in clause (i) to the Foreign Intelligence Surveillance Court; and

(II) stay further proceedings in the relevant litigation, pending the determination of the Foreign Intelligence Surveillance Court.

(iii) PARTICIPATION OF PARTIES.—In reviewing a certification and making a determination under clause (i), the Foreign Intelligence Surveillance Court shall permit any plaintiff and any defendant in the applicable covered civil action to appear before the Foreign Intelligence Surveillance Court pursuant to section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803).

(iv) DECLARATIONS.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a determination made pursuant to clause (i) would harm the national security of the United States, the Foreign Intelligence Surveillance Court shall limit any public disclosure concerning such determination, including any public order following such an ex parte review, to a statement that the conditions of clause (i) have or have not been met, without disclosing the basis for the determination.

(3) PROCEDURES.—

(A) TORT CLAIMS.—Upon a substitution under paragraph (2), for any tort claim—

(i) the claim shall be deemed to have been filed under section 1346(b) of title 28, United States Code, except that sections 2401(b), 2675, and 2680(a) of title 28, United States Code, shall not apply; and

(ii) the claim shall be deemed timely filed against the United States if it was timely filed against the electronic communication service provider.

(B) CONSTITUTIONAL AND STATUTORY CLAIMS.—Upon a substitution under paragraph (2), for any claim under the Constitution of the United States or any Federal statute—

(i) the claim shall be deemed to have been filed against the United States under section 1331 of title 28, United States Code;

(ii) with respect to any claim under a Federal statute that does not provide a cause of action against the United States, the plaintiff shall be permitted to amend such claim to substitute, as appropriate, a cause of action under—

(I) section 704 of title 5, United States Code (commonly known as the Administrative Procedure Act);

(II) section 2712 of title 18, United States Code; or

(III) section 110 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1810);

(iii) the statutes of limitation applicable to the causes of action identified in clause (ii) shall not apply to any amended claim under that clause, and any such cause of action shall be deemed timely filed if any Federal statutory cause of action against the electronic communication service provider was timely filed; and

(iv) for any amended claim under clause (ii) the United States shall be deemed a proper defendant under any statutes described in that clause, and any plaintiff that had standing to proceed against the original defendant shall be deemed an aggrieved party for purposes of proceeding under section 2712 of title 18, United States Code, or section 110 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1810).

(C) DISCOVERY.—

(i) IN GENERAL.—In a covered civil action in which the United States is substituted as party-defendant under paragraph (2), any plaintiff may serve third-party discovery requests to any electronic communications service provider as to which all claims are dismissed.

(ii) BINDING THE GOVERNMENT.—If a plaintiff in a covered civil action serves deposition notices under rule 30(b)(6) of the Federal Rules of Civil Procedure or requests under rule 36 of the Federal Rules of Civil Procedure for admission upon an electronic communications service provider as to which all claims were dismissed, the electronic communications service provider shall be deemed a party-defendant for purposes rule 30(b)(6) or rule 36 and its answers and admissions shall be deemed binding upon the Government.

(b) CERTIFICATIONS.—

(1) IN GENERAL.—For purposes of substitution proceedings under this section—

(A) a certification under subsection (a) may be provided and reviewed in camera, ex parte, and under seal; and

(B) for any certification provided and reviewed as described in subparagraph (A), the court shall not disclose or cause the disclosure of its contents.

(2) NONDELEGATION.—The authority and duties of the Attorney General under this section shall be performed by the Attorney General or a designee in a position not lower than the Deputy Attorney General.

(c) SOVEREIGN IMMUNITY.—This section, including any Federal statute cited in this section that operates as a waiver of sovereign immunity, constitute the sole waiver of sovereign immunity with respect to any covered civil action.

(d) CIVIL ACTIONS IN STATE COURT.—For purposes of section 1441 of title 28, United States Code, any covered civil action that is brought in a State court or administrative or regulatory bodies shall be deemed to arise under the Constitution or laws of the United States and shall be removable under that section.

(e) RULE OF CONSTRUCTION.—Except as expressly provided in this section, nothing in this section may be construed to limit any immunity, privilege, or defense under any other provision of law, including any privilege, immunity, or defense that would otherwise have been available to the United States absent its substitution as party-defendant or had the United States been the named defendant.

(f) EFFECTIVE DATE AND APPLICATION.—This section shall apply to any covered civil action pending on or filed after the date of enactment of this Act.

SA 3906. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. _____. INCREASED CIVIL MONEY PENALTIES AND CRIMINAL FINES FOR MEDICARE FRAUD AND ABUSE.

(a) INCREASED CIVIL MONEY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended—

(1) in subsection (a), in the flush matter following paragraph (7)—

(A) by striking ''$10,000'' each place it appears and inserting ''$20,000'';

(B) by striking ''$15,000'' and inserting ''$30,000''; and

(C) by striking ''$50,000'' and inserting ''$100,000''; and

(2) in subsection (b)—

(A) in paragraph (1), in the flush matter following subparagraph (B), by striking ''$2,000'' and inserting ''$4,000'';

(B) in paragraph (2), by striking ''$2,000'' and inserting ''$4,000''; and

(C) in paragraph (3)(A)(i), by striking ''$5,000'' and inserting ''$10,000''.

(b) INCREASED CRIMINAL FINES.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended—

(1) in subsection (a), in the flush matter following paragraph (6)—

(A) by striking ''$25,000'' and inserting ''$100,000''; and

(B) by striking ''$10,000'' and inserting ''$20,000'';

(2) in subsection (b)—

(A) in paragraph (1), in the flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000''; and

(B) in paragraph (2), in the flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000'';

(3) in subsection (c), by striking ''$25,000'' and inserting ''$100,000'';

(4) in subsection (d), in the second flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000''; and

(5) in subsection (e), by striking ''$2,000'' and inserting ''$4,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to civil money penalties and fines imposed for actions taken on or after the date of enactment of this Act.

SEC. _____. INCREASED SENTENCES FOR FELONIES INVOLVING MEDICARE FRAUD AND ABUSE.

(a) FALSE STATEMENTS AND REPRESENTATIONS.—Section 1128B(a) of the Social Security Act (42 U.S.C. 1320a–7b(a)) is amended, in clause (i) of the flush matter following paragraph (6), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(b) ANTI-KICKBACK.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended—

(1) in paragraph (1), in the flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''; and

(2) in paragraph (2), in the flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(c) FALSE STATEMENT OR REPRESENTATION WITH RESPECT TO CONDITIONS OR OPERATIONS OF FACILITIES.—Section 1128B(c) of the Social Security Act (42 U.S.C. 1320a–7b(c)) is amended by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(d) EXCESS CHARGES.—Section 1128B(d) of the Social Security Act (42 U.S.C. 1320a–7b(d)) is amended, in the second flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to criminal penalties imposed for actions taken on or after the date of enactment of this Act.

SEC. _____. INCREASED SURETY BOND REQUIREMENT FOR SUPPLIERS OF DME.

(a) IN GENERAL.—Section 1834(a)(16)(B) of the Social Security Act (42 U.S.C. 1395m(a)(16)(B)) is amended by striking ''$50,000'' and inserting ''$500,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the issuance (or renewal) of a provider number for a supplier of durable medical equipment on or after the date of enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, January 31, 2008, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the regulatory aspects of carbon capture, transportation, and sequestration and to receive testimony on two related bills: S. 2323, a bill to provide for the conduct of carbon capture and storage technology research, development and demonstration projects, and for other purposes; and S. 2144, a bill to require the Secretary of Energy to conduct a study of the feasibility relating to the construction and operation of pipelines and carbon dioxide sequestration facilities, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to *Rosemarie_Calabro@energy.senate.gov*

For further information, please contact Allyson Anderson at (202) 224–7143 or Rosemarie Calabro at (202) 224–5039.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on February 13, 2008, at 9:45 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the President's fiscal year 2009 budget request for the Department of the Interior.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to rachei_pastemack@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Rachel Pasternack at (202) 224–0883.

AUTHORITY FOR COMMITTEES TO MEET

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, in order to conduct a hearing entitled ''Oversight of the Justice for All Act: Has the Justice Department Effectively Administered the Bloodsworth and Coverdell DNA Grant Programs?'' on Wednesday, January 23, 2008, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building.

Witness list

Panel I: Honorable Glenn A. Fine, Inspector General, Department of Justice, Washington, DC and John Morgan, Deputy Director for Science and Technology, National Institute of Justice, Department of Justice, Washington, DC.

Panel II: Larry A. Hammond, Partner, Osborn Maledon, Phoenix, AZ; Peter M. Marone, Director, Virginia Department of Forensic Science, Richmond, VA; and Peter J. Neufeld, Co-Director, The Innocence Project, Cardozo School of Law, New York, NY.

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

PRIVILEGES OF THE FLOOR

Mrs. FEINSTEIN. Madam President, on behalf of Senator LEAHY, I ask unanimous consent that Matthew Solomon, a detailee on Senator LEAHY's Judiciary Committee staff, be given floor privileges during the debate and the vote of S. 2448, the FISA Amendment Act of 2007.

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

Mr. DORGAN. Madam President, I ask unanimous consent that Lindsey Miller and Katie Suchman of Senator GRASSLEY's staff be granted the privileges of the floor for the duration of debate on Indian health care legislation.

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

HONORING THE 150TH ANNIVERSARY OF THE AMERICAN PRINTING HOUSE FOR THE BLIND

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 421, which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 421) honoring the 150th anniversary of the American Printing House for the Blind.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid on the table.

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

The resolution (S. Res. 421) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 421

Whereas the American Printing House for the Blind was chartered in 1858 in Louisville, Kentucky by the General Assembly of Kentucky through An Act to Establish the American Printing House for the Blind, in response to a growing national need for books and educational aids for blind students;

Whereas Louisville, Kentucky was chosen as the best city in which to establish a national publishing house to print books in raised letters due to its central location in the country in 1858 and its efficient distribution system;

Whereas the 45th Congress passed an Act to promote the education of the blind in 1879 designating the American Printing House for the Blind as the official national source of textbooks and educational aids for legally blind students below college level throughout the country, and Congress appropriates

Federal funds to the American Printing House for the Blind annually for this purpose;

Whereas, for 150 years, the American Printing House for the Blind has identified the unique needs of people who are blind and visually impaired and has developed, produced, and distributed educational materials in Braille, large print, and enlarged print throughout the United States;

Whereas the American Printing House for the Blind serves more than 58,000 blind and visually impaired Americans each year; and

Whereas the American Printing House for the Blind each year attracts visitors from across the country and around the world to learn about the history of the education of the blind and to exchange information on the evolving needs of the population it serves: Now, therefore, be it

Resolved, That the Senate—

(1) honors the 150th anniversary of the establishment of the American Printing House for the Blind in Louisville, Kentucky, and

(2) recognizes the important role the American Printing House for the Blind has played in the education of blind and visually impaired students throughout the United States.

COMMENDING THE LSU TIGERS FOOTBALL TEAM

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 422, which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 422) commending the Louisiana State University Tigers football team for winning the 2007 Bowl Championship Series national championship game.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid on the table.

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

The resolution (S. Res. 422) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 422

Whereas the Louisiana State University Tigers football team won the 2007 Bowl Championship Series national championship game, defeating The Ohio State University by a score of 38 to 24 at the Louisiana Superdome in New Orleans, Louisiana, on January 7, 2008;

Whereas the Louisiana State University football team won the Southeastern Conference Championship on December 1, 2007, defeating the University of Tennessee by a score of 21 to 14 in the championship game at the Georgia Dome in Atlanta, Georgia;

Whereas the Louisiana State University football team won 12 games during the 2007 season;

Whereas the Louisiana State University football team won 7 games against nationally ranked opponents during the 2007 season;

Whereas the Louisiana State University football team set a total of 12 school offensive records during the 2007 season including 541 points scored, averaging 38.6 points per game and 6,152 yards in total offense;

Whereas Craig Steltz was named first-team All-American and led the Southeastern Conference in interceptions;

Whereas defensive tackle Glenn Dorsey was awarded the Bronko Nagurski Trophy, the Rotary Lombardi Trophy, the Outland Trophy, and the Ronnie Lott Trophy, making him the most honored defensive player in Louisiana State University history;

Whereas quarterback Matt Flynn threw 21 touchdown passes during the 2007 season, including a career-high record of 4 touchdowns in the Bowl Championship Series national championship game;

Whereas running back Jacob Hester rushed for 1,103 yards during the 2007 season, scoring 12 touchdowns, and completed his collegiate football career of 364 carries without fumbling or turning over the football;

Whereas Louisiana State University head coach Les Miles has led the Tiger football program to 34 wins, 20 Southeastern Conference victories, 14 wins over nationally ranked opponents, and 3 double-digit win seasons as head coach; and

Whereas Louisiana State University is the first team to win 2 Bowl Championship Series national championship titles, having won 2 titles in 5 years: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Louisiana State University Tigers football team for winning the 2007 Bowl Championship Series national championship game;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the Louisiana State University football team during the 2007 football season;

(3) congratulates the citizens of Louisiana, the Louisiana State University community, and fans of Tiger football; and

(4) requests the Secretary of the Senate to transmit an enrolled copy of this resolution to Louisiana State University for appropriate display.

Mr. BROWN. Mr. President, I regret I wasn't standing here with the congratulations of the Red Sox beating the Cleveland Indians earlier last year.

SEEKING THE RETURN OF THE USS ''PUEBLO''

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 423, which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 423) seeking the return of the USS Pueblo to the United States Navy.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 423) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 423

Whereas the USS Pueblo, which was attacked and captured by the Navy of North Korea on January 23, 1968, was the first ship of the United States Navy to be hijacked on the high seas by a foreign military force in more than 150 years;

Whereas 1 member of the USS Pueblo crew, Duane Hodges, was killed in the assault, while the other 82 crew members were held in captivity, often under inhumane conditions, for 11 months;

Whereas the USS Pueblo, an intelligence collection auxiliary vessel, was operating in international waters at the time of the capture, and therefore did not violate the territorial waters of North Korea;

Whereas the capture of the USS Pueblo resulted in no reprisals against the Government or people of North Korea and no military action at any time; and

Whereas the USS Pueblo, though still the property of the United States Navy, has been retained by the Government of North Korea for 40 years, was subjected to exhibition in the North Korean cities of Wonsan and Hungham, and is now on display in Pyongyang, the capital city of North Korea: Now, therefore, be it

Resolved, That the Senate—

(1) desires the return of the USS Pueblo to the United States Navy;

(2) would welcome the return of the USS Pueblo as a goodwill gesture from the North Korean people to the American people; and

(3) directs the Secretary of the Senate to transmit copies of this resolution to the President, the Secretary of Defense, and the Secretary of State.

ELECTING LULA JOHNSON DAVIS SECRETARY FOR THE MAJORITY OF THE SENATE

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 424, which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

Resolved, That Lula Johnson Davis, of Maryland, be and she is hereby, elected Secretary for the Majority of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. Mr. President, I congratulate the new appointee.

I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 424) was agreed to.

ORDERS FOR THURSDAY, JANUARY 24, 2008

Mr. BROWN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, January 24; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day,

and the Senate then resume consideration of S. 2248, the FISA legislation.

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

ORDER FOR ADJOURNMENT

Mr. BROWN. Mr. President, if there is no further business, I ask unanimous consent that following the remarks of Mr. DODD, the senior Senator from Connecticut, the Senate then stand adjourned under the previous order.

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

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

FISA

Mr. DODD. Mr. President, let me begin my remarks, I know tomorrow we are going to begin more formal debate on the FISA legislation. This is to be a continuation of the effort, for those who wonder what this is, this is the Foreign Intelligence Surveillance Act. This was the debate which was the last item of debate before the holiday break back in mid-December.

The legislation was withdrawn and was not completed. Senator ROCKEFELLER, Senator BOND, the chairman and the ranking Republican, and members of the Intelligence Committee, Senator LEAHY, Senator SPECTER, and members of the Judiciary Committee, Republicans and Democrats have worked on this legislation.

I wish to begin my comments by thanking them for their efforts on trying to develop a piece of legislation that would reflect the realities of today.

There has been some history of this bill. My intention this evening is to spend some time talking about a section of this bill dealing with retroactive immunity, which my colleagues and others who followed this debate know I spent some 10 hours on the floor of this body back in December expressing strong opposition to that provision of this bill; not over the general thrust of the bill.

The Foreign Intelligence Surveillance Act is critically important to our country. It provides a means by which you can have a proper warrant extended or given out by governmental authorities to collect data, information, critical to our security.

For those who know the history of this, it dates back to the 1970s as a result of the Church Committee's efforts revealing some of the egregious activities of the Nixon administration in listening in, eavesdropping, wiretapping, without any kind of court order, warrant or legal authorities.

So the Congress, working in a bipartisan fashion, I think almost unanimously adopted the Foreign Intelligence Surveillance Act in the late 1970s. Since that time, this bill has been amended I think some 30 or 40 times, maybe more, I know it has been a number of times over the years. In nearly every instance, almost unanimously amended to reflect the changes over the years and the sophistication of those who would do us harm or damage, as well as our ability to more carefully apprehend or listen in or gather information that could help us protect our Nation from those who would do us great harm.

That is a very brief history of this. We are once again at a situation to try and modernize and reflect the needs of our Nation. There is a tension that that exists between making sure we are secure and safe and simultaneously doing it in a manner in which we protect the basic rights of the American citizens.

There has been this tension throughout our history. But we are a nation grounded in rights and liberties. It is the history of our country. It is what made us unique as a people going back more than two centuries.

Over the years, we have faced very significant challenges, both at home and abroad. So we have had a need to provide for the means by which we collect data and information that would protect us, to make us aware of those who would do us harm, and yet simultaneously make sure that in the process of doing that, we do not abandon the rights and liberties we all share as Americans. The Constitution does not belong to any political party. I have said that over and over again. Certainly today, as we debate these issues involving the FISA legislation, I hope everyone understands very clearly my objections to the provisions of this bill have nothing to do whatsoever with the important efforts to make it possible for us to collect data that would keep us safe, but I feel passionately that we not allow this vehicle, this piece of legislation, to be used as a means by which we reward behavior that violated the basic liberties of American citizens by granting retroactive immunity to telecom companies that decided, for whatever reason, to agree, at the Bush administration's request, to provide literally millions of telephone conversations, e-mails, and faxes, not for a month or 6 months or a year but for 5 years, in a concerted effort contrary to the law of our land.

So that is what brings me to the floor this evening. It is what brought me to the floor of this body before the holiday recess, talking and expressing my strong opposition to those provisions of this legislation. There are other concerns I would point out about this bill that other Members will raise. Senator FEINGOLD has strong objections to certain provisions of this legislation, others have other ideas I am confident have merit.

But I commend Senator ROCKEFELLER and Senator BOND. They have done the best job, in many ways, of dealing with these sets of questions. But why in the world we decided we are going to grant retroactive immunity to these telephone companies is what mystifies me, concerns me deeply, because of the precedent-setting nature of it.

There are those who would argue that in order for us to be more secure, we must give up some rights, that you have to make that choice. You cannot be secure, as we would like to be, if we are unwilling to give up these rights and liberties.

I think this false dichotomy is dangerous. In fact, I think the opposite is true. In fact, if you protect these rights and liberties, that is what makes us more secure. Once you begin traveling down that slippery slope of deciding on this particular occasion we are going to walk away from these rights and these liberties, once you begin that process, it gets easier and easier to do.

In this case, we are talking about telecom companies. We are talking about communications between private citizens, e-mails, faxes, phone conversations. Why not medical information? Why not financial information? When is the next example going to come up where companies that knew better, not should have known better, knew better, in my view.

One of the companies that may have complied with the Bush administration's request, in fact, was deeply involved in the drafting of this legislation in the 1970s, in putting the FISA bill together. This was not some first year law school student who did not know the law of the land in terms of FISA, they knew the law, they understood it.

In fact, there are phone companies that refused to comply with the request of the Bush administration absent a court order. Those companies said: Give us a court order, we will comply. Absent a court order, we will not comply.

So there were companies that understood the differences when these requests were made more than 5 years ago.

So this was not a question of ''everybody did it,'' the same argument that children bring to their parents from time to time, or ''we were ordered on high,'' in what is known as the Nuremberg defense which asserts that there were those in higher positions who said we ought to do this. That was the defense given in 1945 at the Nuremberg trials by the 21 defendants who claimed they were only obeying orders given by Hitler. Though this situation before us is obviously enormously different, a similar argument, that the companies were ordered to do this, defies logic and the facts of this case.

With that background and the history of the FISA legislation—and there are others who will provide more detail—let me share some concerns about this particular area of the law. I will be utilizing whatever vehicles are available to me, including language I will offer to strike these provisions, to see to it that this bill does not go forward with retroactive immunity as drafted

in the legislation included in the bill. I rise, in fact, in strong opposition to the retroactive immunity provisions of the Foreign Intelligence Surveillance Act as passed by the Intelligence Committee. I strongly support the Leahy substitute to the current legislation. It is my hope the Senate adopts this important measure. If it does, it will solve this particular problem. However, I am concerned that, once again, we will return to a Foreign Intelligence Surveillance Act that will grant retroactive immunity to telecom companies.

As my colleagues know, I have strongly opposed retroactive immunity for the telecommunications companies that may have violated the privacy of millions of our fellow citizens. Last month, I opposed retroactive immunity on the Senate floor for more than 10 hours. The bill was withdrawn that day, but I am concerned that tomorrow retroactive immunity will return, and I am prepared to fight it again.

Since last month, little has changed. Retroactive immunity is as dangerous to American civil liberties as it was last month, and my opposition to it is just as passionate. The last 6 years have seen the President—the Bush administration's pattern of continual abuses against civil liberties.

Again, if this were the first instance and it went on for a few months, a year, these companies acquiescing to an administration's request, an administration that had made it its business to protect the basic liberties of Americans throughout its terms in office, I would not be standing here. I am not so rigid, so doctrinaire that I am unwilling to accept that at times of emergency such as in the wake of 9/11, you might have such a request being made by an administration—not that I think it is right, but it could happen. I would say if it did and a handful of companies for a few months or a year, even, complied with it and went forward, I wouldn't be happy about it, but I would understand it. But that is not what happened here. That is not what this administration has been involved in. From Guantanamo, from Abu Ghraib, from rendition, secret prisons, habeas corpus, torture, a scandal involving the Attorney General's Office, the U.S. attorneys offices around the country—how many examples do you need to have? How many do we have to learn about to finally understand that we have an administration regrettably that just doesn't seem to understand the importance of the rule of law, the basic rights and liberties of the American public?

My concern is that we had a pattern of behavior, almost nonstop, going on some 6 years and still apparently ongoing today. Then add that to the fact that this collection of data, this collection of information went on not for 6 months or a year but for 5 long years and would have continued, had there not been a story in the media which uncovered, through a whistleblower, that this was going on. It would still be going on today, despite the absence of any court order, or a warrant being granted by the FISA courts. There is a pattern of behavior that is going unchecked, and behavior went on for more than 5 years. That is why I stand here, because I am not going to tolerate—at least this Member is not—accepting these abuses and granting retroactive immunity. It is, once again, a walking away from this problem, inviting even more of the same in the coming days.

It is alleged, of course, that the administration worked outside the law with giant telecom corporations to compile Americans' private domestic communications—in other words, a database of enormous scale and scope. Those corporations are alleged to have spied secretly and without warrant on their own American customers.

Here is only one of the most egregious examples. According to the Electronic Frontier Foundation:

> Clear, first-hand whistleblower documentary evidence [states] . . . that for year on end every e-mail, every text message, every phone call carried over the massive fiber-optic links of sixteen separate companies routed through AT&T's Internet hub in San Francisco—hundreds of millions of private, domestic communications—have been . . . copied in their entirety by AT&T and knowingly diverted wholesale by means of multiple ''splitters'' into a secret room controlled exclusively by the NSA.

Those are not my words; those are the words of the Electronic Frontier Foundation. To me, those facts speak clearly. If true, they represent an outrage against privacy, a massive betrayal of trust.

I know many see this differently. No doubt they do so in good faith. They find the telecoms' actions defensible and legally justified. To them, immunity is a fitting defense for companies that were only doing their patriotic duty. Perhaps they are right. I think otherwise, but I am willing to concede they may be right.

But the President and his supporters need to prove far more than that. I think they need to show that they are so right and that our case is so far beyond the pale that no court ever need settle the argument, that we can shut down the argument here and now. That is what this will do. It will shut down this argument, and we will never, ever know what data was collected, why, who ordered this, who was responsible, if we grant retroactive immunity.

Retroactive immunity shuts the courthouse door for good. It settles the issue with politicians, not with judges and jurist, and it puts Americans permanently in the dark on this issue. Did the telecoms break the law? I have my own strong views on this but, candidly, I don't know. That is what courts exist for. Pass immunity, and we will never know the answer to that question. The President's favorite corporations will be unchallenged. Their arguments will never be heard in a court of law. The truth behind this unprecedented domestic spying will never see the light of day. The book on our Government's actions will be closed for good and sealed and locked and handed over to safekeeping of those few whom George Bush trusts to keep a secret.

Over the next couple of days, I will do my best to explain why retroactive immunity is so dangerous and, conversely, why it is so important to President Bush. But first it would be useful to consider the history of the bill before us, as I did at the outset of my remarks, and how it fits into the history of the President's warrantless spying on Americans.

For years, President Bush allowed Americans to be spied on with no warrant, no court order, and no oversight. The origins of this bill, the FISA Amendments Act, lie in the exposure of that spying in 2005.

That year, the New York Times revealed President Bush's ongoing abuse of power. To quote from that investigation:

> Under a presidential order signed in 2002, the National Security Agency has monitored the international telephone calls and international e-mail messages of hundreds, perhaps thousands of people inside the United States without warrants over the past 3 years.

In fact, we later learned that the President's warrantless spying was authorized as early as 2001. Disgraced former Attorney General Alberto Gonzales, in a 2006 white paper, attempted to justify that spying. His argument rested on the specious claim that in authorizing the President to go to war in Afghanistan, Congress had also somehow authorized the President to listen in on the phone calls of Americans. But many of those who voted on the original authorization of force found this claim to new Executive powers to be laughable.

Here is what former majority leader Tom Daschle wrote at the time or shortly thereafter:

> As Senate majority leader . . . I helped negotiate that law with the White House counsel's office over two harried days. I can state categorically that the subject of warrantless wiretaps of American citizens never came up. . . . I am also confident that the 98 senators who voted in favor of authorization of force against al Qaeda did not believe that they were also voting for warrantless domestic surveillance.

Such claims to expand Executive power based on the authorization for military force have since been struck down by the courts.

Recently, the administration has changed its argument, now grounding its warrantless surveillance power in the extremely nebulous authority of the President to defend the country that they find in the Constitution. Of course, that begs the question, exactly what doesn't fit in under defending the country? If we take the President at his word, we would concede to him nearly unlimited power, power that belongs in this case in the hands of our courts. Congress has worked to bring the President's surveillance program

back where it belongs—under the rule of law. At the same time, we have worked to modernize FISA and ease restrictions on terrorist surveillance.

The Protect America Act, a bill attempting to respond to the two-pronged challenge—poorly, in my view—passed in August. But it is set to expire this coming February. The bill now before us would create a legal regime for surveillance under reworked and more reasonable rules.

But crucially, President Bush has demanded that this bill include full retroactive immunity for corporations complicit in domestic spying. In a speech on September 19, he stated that ''it's particularly important for Congress to provide meaningful liability protection to those companies.'' In October, he stiffened his demand, vowing to veto any bill that did not shield the telecom corporations. And last month, he resorted to shameful, misleading scare tactics, accusing Congress of failing ''to keep the American people safe.'' That is absolutely outrageous. An American President, at a time when there are serious threats and reliable information that the threat still persists, an American President is saying: Despite your efforts to modernize FISA by providing the additional tools we need for proper surveillance on terrorist activities, I will veto this bill, I will deny you this legislation, if you don't provide protection for a handful of corporations that violated the law. That is an incredible admission, the fact that he is willing to lose all of the efforts we are making to modernize FISA in order to grant retroactive immunity so you are not in a court of law. Who is putting the country at greater risk? That is what the debate is about. That is what the President has said. He will veto the bill if we don't provide protection for a handful of corporations that, for 5 long years, when their legal departments knew exactly what the law was—AT&T was involved in the drafting of the FISA legislation in 1978. How can that company possibly claim they didn't know what the law of the land was when it came to FISA, going before the secret FISA courts, getting those warrants to allow for the Government to go in and do the proper surveillance and grant the immunity that these companies would receive under that kind of a situation. To avoid that court altogether was wrong. For 5 long years, they did that.

Now the President says: I don't care what Jay Rockefeller or what Kit Bond or what the Intelligence Committee has done to modernize FISA. If you don't give me those protections I want for those handful of corporations, then you are not going to get this bill that modernizes the surveillance on terrorist activity.

The very same month, the FISA Amendments Act came before the Senate Select Committee on Intelligence. Per the President's demand, it included full retroactive immunity for the telecom corporations. Don't give me it, I will veto the bill. And the committee went along. Senator NELSON of Florida offered an amendment to strip that immunity and instead allow the matter to be settled in the courts. It failed on a 3-to-12 vote in committee. As it passed out of the Intelligence Committee by a vote of 13 to 2, the bill still put corporations literally above the law and assured that the President's invasion of privacy would remain a secret.

At that time, I made public my strong objections on immunity, but the bill also had to pass through the Judiciary Committee. Through an open and transparent process, the Judiciary Committee amended several provisions relating to title I and reported out a bill lacking the egregious immunity provisions. However, I am still concerned that when Senator FEINGOLD proposed an amendment to strip immunity for good, it failed by a vote of 7 to 12 in the committee.

So here we are, facing a final decision on whether the telecommunications companies will get off the hook for good without us ever knowing anything more about it, because if you grant immunity, that is it. We will never learn anything else. The President is as intent as ever he was on making that happen. He wants immunity back in this bill at all costs, including a willingness to veto very important legislation, without the meaningful provisions of this bill that would provide this country with the kind of protection and security we ought to have. He is willing to lose all of that. He is willing to trade off all of that to give a handful of corporations immunity.

What he is truly offering is secrecy in place of openness. Fiat in place of law. And in place of the forthright argument of judicial deliberation that ought to be this country's pride, there are two simple words he offers: Trust me.

I would never take that offer, not even from a perfect President. Because in a republic, power was made to be shared; because power must be bound by firm laws, not the whims of whomever happens to sit in the Executive chair; because only two things make the difference between a President and a king—the oversight of the legislative body, and the rulings of the courts.

It is why our Founders formed this Government the way they did, with three branches of government coequally sharing the powers to govern. Each is a check on the other. That is what the Founders had been through: the absence of that.

''Trust me.'' Those two small words bridge the entire gap between the rule of law and the rule of men, and it is a dangerous irony that when we need the rule of law the most, the rule of men is at its most seductive.

It is a universal truth that the loss of liberty at home is to be charged to the provisions against danger . . . from abroad.

Let me repeat that.

It is a universal truth that the loss of liberty at home is to be charged to the provisions against danger . . . from abroad.

That is from James Madison, the father of our Constitution. He made that prediction more than two centuries ago. If we pass immunity, and put our President's word above the courts and witnesses and evidence and deliberations, we bring that prophecy a step closer to coming true.

I repeat it again:

It is a universal truth that the loss of liberty at home is to be charged to the provisions against danger . . . from abroad.

James Madison.

So that is the deeper issue behind this bill. That is the source of my passion, if you will. I reject President Bush's ''trust me'' because I have seen what we get when we accept it.

I go back and mention just the maze, the list of egregious violations of the rule of law over the last 6 years. With that aside, were this a Democratic administration that would suggest this, I would be as passionate about it, not because I distrust them necessarily but because once we succumb to the passions or the desires of the rule of men over the rule of law, then we trade off the most important fundamental essence of who we are as a people.

We are a nation of laws and not men. How many times have we heard that? You learn that in your first week of constitutional law. You learn in your American history class as a high school student the importance of the rule of law. If we walk away from that, then, of course, we walk away from who we are as a people.

After all of that, President Bush, of course, comes to us in all innocence and begs, once again: Trust me. He means it literally. Here in the world's greatest deliberative body only a small handful of Senators know even the barest facts; only a tiny minority of us have even seen the classified documents that explain exactly what the telecoms have done, exactly what actions we are asked to make legally disappear.

I have been a Member of this body for over a quarter of a century. I am a senior member of the Foreign Relations Committee. I have no right to see this? As a Member of this body, as a senior member of the Foreign Relations Committee, I am prohibited. Only the administration can see this and one or two people here who are granted the right to actually see and understand what went on.

So we are being asked as a body to blindly grant this immunity, take this issue away entirely so no one can ever learn anything more about 5 long years of millions—millions—of Americans, with their private phone conversations, their faxes, and e-mails. Every word uttered is now being held and kept. And this administration knows it. The people in charge of it know it. And we want to find out why this happened, who ordered this, who provided this. If we grant this immunity, we will never know the answers to those questions.

So as far as the rest of us—we are flying blind. And in that state of blindness, we can only offer one kind of oversight. The President's favorite kind: the token kind. And here, in the dark, we are expected to grant President Bush's wish. Because, of course, he knows best. Does that sound familiar to any of my colleagues?

In 2002, we took the President's word and faulty intelligence on weapons of mass destruction, and we mistakenly approved what has become the disaster in Iraq.

Is history repeating itself in a small way today? Are we about to blindly legalize gravely serious crimes?

If we have learned anything—if we have learned anything at all—it must be this: Great decisions must be built on equally strong foundations of fact. Of course, we are not voting to go to war today. Today's issue is not nearly as immense, I would argue. But one thing is as huge as it was in 2002; and that is, the yawning gap between what we know and what we are asked to do.

So I stand again and oppose this immunity—wrong in itself, grievously wrong, I would add, in what it represents: contempt for debate, contempt for the courts, and contempt for the rule of law. As I did in December, I will speak against that contempt as strongly as I can.

So I will reserve further debate and discussion for tomorrow, as we go forward with this. I say this respectfully to my colleagues. I do not know if a cloture motion will be filed or not, but I hope there will be enough people who will join me.

This bill can go forward without this immunity in it. And it ought to go forward. There are some amendments that will be offered, some of which I will support. There are ideas to improve on the FISA provisions of the bill to see to it that the Foreign Intelligence Surveillance Act will do exactly what we want it to do: to allow us to get that surveillance on those who would do us harm and simultaneously make sure that basic liberties are going to be protected.

But I will do everything in my power, to the extent that any one Member of this body can, to see to it we do not go forward in the provision of this bill that grants retroactive immunity for the egregious misbehavior, to put it mildly, that went on here.

The courts may prove otherwise. I do not know. Maybe someone will prove what they did turned out to be legally correct. But we are never going to know that if we, as a body—Democrats and Republicans—walk away from the rule of law and deny the courts of this land which have the ability to do this. The argument that you cannot rely on the courts to engage in a deliberation involving information that should be held secret is wrong. We have done it on thousands of cases over the years, and we can do it here.

So I hope there will be those who will join me in saying to the President: If you want to veto this bill, go ahead. You veto it because you did not get your corporations' immunity. You explain that to the American public, why we did not have the tools available that kept America safe from those who would do us harm—because a handful of corporations decided to violate the law, in my view, and did so because the Bush administration asked them to do that. You are going to veto this bill to deny us those tools that our intelligence communities ought to have to protect American citizens at a dangerous time. You make that decision.

So when this debate continues tomorrow, I will offer some additional thoughts in support of the Leahy amendment. I will be offering my own amendment, to strike retroactive immunity, and I will be considering other amendments along the way.

If all of that fails, then I will engage in the historic rights reserved in this body for individual Members to talk for a while, to talk about the rule of law, and to talk about the importance of it. I do not think I have ever done this before. I have been here a long time, and I rarely engage in such activities. I respect those who have.

The Founders of this wonderful institution granted the rights of individual Senators to be significant, including the power of one Senator to be able to hold the floor on an important matter about which they care deeply. I care deeply about this issue. I think all of my colleagues do. I just hope they will care enough about it to see to it this bill does not go forward with the precedent-setting nature of granting immunity in this case. It is not warranted. It is not deserved. It was not a minor mistake over a brief period of time.

There is a pattern of behavior, and it went on for too long, and it would still go on if it had not been for a report done by a newspaper and a whistleblower who stood up within the phone company, who had the courage to say this was wrong, or we would still be engaged in these practices today.

I think we as a body—Democrats and Republicans—need to say to this administration, and all future administrations, that you are not going to step all over the liberties and rights of American citizens in the name of security. That is a false choice, and we are not going to tolerate that and set the precedent tonight or tomorrow by agreeing to such a grant of immunity in this bill.

Mr. President, I appreciate the patience of the Chair and yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:39 p.m., adjourned until Thursday, January 24, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

ANITA K. BLAIR, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE WILLIAM A. NAVAS, JR., RESIGNED.

DEPARTMENT OF STATE

MARGARET SCOBEY, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ARAB REPUBLIC OF EGYPT.

D. KATHLEEN STEPHENS, OF MONTANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

DEPARTMENT OF JUSTICE

STEVEN G. BRADBURY, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE JACK LANDMAN GOLDSMITH III, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. CECIL R. RICHARDSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. ROBERT G. KENNY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DANIEL P. GILLEN, 0000
COL. MICHAEL J. YASZEMSKI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL ROBERT B. BARTLETT, 0000
BRIGADIER GENERAL THOMAS R. COON, 0000
BRIGADIER GENERAL JAMES F. JACKSON, 0000
BRIGADIER GENERAL BRIAN P. MEENAN, 0000
BRIGADIER GENERAL CHARLES E. REED, JR., 0000
BRIGADIER GENERAL JAMES T. RUBEOR, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL ROBERT S. ARTHUR, 0000
COLONEL GARY M. BATINICH, 0000
COLONEL RICHARD S. HADDAD, 0000
COLONEL KEITH D. KRIES, 0000
COLONEL MURIEL R. MCCARTHY, 0000
COLONEL DAVID S. POST, 0000
COLONEL PATRICIA A. QUISENBERRY, 0000
COLONEL ROBERT D. REGO, 0000
COLONEL PAUL L. SAMPSON, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL RANDOLPH D. ALLES, 0000
BRIGADIER GENERAL JOSEPH F. DUNFORD, JR., 0000
BRIGADIER GENERAL ANTHONY L. JACKSON, 0000
BRIGADIER GENERAL PAUL E. LEFEBVRE, 0000
BRIGADIER GENERAL RICHARD P. MILLS, 0000
BRIGADIER GENERAL ROBERT E. MILSTEAD, JR., 0000
BRIGADIER GENERAL MARTIN POST, 0000
BRIGADIER GENERAL MICHAEL R. REGNER, 0000
BRIGADIER GENERAL MELVIN G. SPIESE, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DIRECTOR OF ADMISSIONS AT THE UNITED STATES AIR FORCE ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 9333 (C) AND 9336 (B):

To be colonel

CHEVALIER P. CLEAVES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JAWN M. SISCHO, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOAQUIN SARIEGO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOHN A. CALCATERRA, JR., 0000
KATHLEEN M. CRONIN, 0000
DAVID K. GOLDBLUM, 0000
MARIA D. RODRIGUEZRODRIGUEZ, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JERRY ALAN ARENDS, 0000
CRAIG LYNN GORLEY, 0000
BILLY L. LITTLE, JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DONNIE W. BETHEL, 0000
JAMES C. CAINE, 0000
DEREK KAZUYOSHI HIROHATA, 0000
DONNA R. HOLCOMBE, 0000
MITCHEL NEUROCK, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

PAUL A. ABSON, 0000
WILLIAM H. BAILEY, 0000
GEORGE Z. FRIEDMAN, JR., 0000
KENNETH TAMOTSU FURUKAWA, 0000
MATTHEW R. GEE, 0000
ISMAIL HALABI, 0000
ERIC T. IFUNE, 0000
BRUCE K. NEELY, 0000
LAURENCE M. NELSON, JR., 0000
CRAIG D. SILVERTON, 0000
PHILIP A. SWEET, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MARI L. ARCHER, 0000
ELIZABETH J. BRIDGES, 0000
PATRICIA A. BRUNNER, 0000
ADELE CHRISTINE HILL, 0000
CYNTHIA D. LINKES, 0000
JACQUELINE A. PAYNE, 0000
CHERIE L. ROBERTS, 0000
TAMI R. ROUGEAU, 0000
PAULETTE R. SCHANK, 0000
DONALD G. SMITH, JR., 0000
MARTHA P. SOPER, 0000
LAUREL A. STOCKS, 0000
KAREN A. WINTER, 0000
GILBERT W. WOLFE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

WILLIAM A. BEYERS III, 0000
SCOTT E. SAYRE, 0000
DEAN H. WHITMAN, 0000
ROSS A. ZIEGLER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ROBERT R. CANNON, 0000
WILLIAM THOMAS EVANS, 0000
DAVID C. FULTON, 0000
THOMAS MALEKJONES, 0000
DAVID GERARD REESON, 0000
LYLE E. VON SEGGERN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

VITO EMIL ADDABBO, 0000
JOE TODD ALBRIGHT, 0000
JAMES M. ALLMAN, 0000
ROBERT D. AMENT, 0000
FRANK LOUIS AMODEO, 0000
YVETTE R. ANDERSON, 0000
MARYANN P. ANTE AMBURGEY, 0000
ELIZABETH E. ARLEDGE, 0000
PATRICK ASSAYAG, 0000
TIMOTHY W. BALDWIN, 0000
THOMAS P. BALL III, 0000
MAUREEN G. BANAVIGE, 0000
KATHLEEN T. BARRISH, 0000
JOSEPH H. BATTAGLIA II, 0000
AHMED ALSAYE BEERMANNAHMED, 0000
RENE L. BERGERON, 0000
PHILLIP E. BINGMAN, 0000
CRAIG A. BOGAN, 0000
ROBERT STUART BOSTON, 0000
ERIC W. BRANDES, 0000
DAWN M. BROTHERTON, 0000
TIMOTHY DAVID BROWN, 0000
VINCENT EMANUEL BUGEJA, 0000
CORDEL BULLOCK, 0000
KENNETH C. BUNTING, 0000
CHRISTOPHER KELLY CAUDILL, 0000
WALID TONY CHEBLI, 0000
MARK W. CLEMENTS, 0000
MARK G. CONNOLLY, 0000
JAMES N. COOMBES II, 0000
CHRISTINE VOSS COPP, 0000
AMY LYNN WIMMER COX, 0000
THOMAS DANIELSON, 0000
ANTHONY F. DESIMONE, 0000
KIM P. DICKIE, 0000
JAMES F. DIFRANCESCO, 0000
JOHN G. DORTONA, 0000
JEFFREY M. DRAKE, 0000
DOUGLAS K. DUNBAR, 0000
SCOTT W. ELDER, 0000
JEFFERY E. ELLIOTT, 0000
WILLIAM B. FEATHERSTON, 0000
JOHN R. FLODEN, 0000
JOSEPH J. FRAUNDORFER, 0000
GEORGE W. FRAZIER, JR., 0000
JAMES WALTER FRYER, 0000
JOHN S. FUJITA, 0000
FREDERICK H. FUNK, 0000
MICHAEL A. GERMAIN, 0000
QUINTON L. GLENN, 0000
CHRISTIE I. GRAVES, 0000
JOHN E. GREAUD III, 0000
WILLIAM B. HARRIS III, 0000
PAUL L. HASTERT, 0000
AMAND F. HECK, 0000
THOMAS K. HENDERSON, JR., 0000
FARRIS C. HILL, 0000
JOHN J. HOFF, JR., 0000
STEPHEN M. HOOGASIAN, 0000
ARTHUR R. HOPKINS III, 0000
RICHARD L. HUGHEY, 0000
JAMES B. HURLEY, 0000
CONNIE C. HUTCHINSON, 0000
ALAN R. ISROW, 0000
JOSEPH J. JACZINSKI, 0000
JAY D. JENSEN, 0000
ANDREW A. JILLIONS, 0000
GEORGE E. JOHNSON, JR., 0000
KATHRYN JANE JOHNSON, 0000
DAVID J. JURAS, 0000
KEVIN L. KALLSEN, 0000
KATHRYN ADELE KARR, 0000
TIMOTHY P. KELLY, 0000
RICHARD L. KEMBLE, 0000
THOMAS D. KING, 0000
WALTER G. KLEPONIS, 0000
REUBEN P. KNOX, 0000
THOMAS M. KNOX, 0000
MICHAEL P. KOZAK, 0000
CHRISTOPHER DAVID KREIG, 0000
TIMOTHY W. LAMB, 0000
WESLEY S. LASHBROOK, 0000
RUTH LATHAM, 0000
MARCIA MARIE LEDLOW, 0000
PAMELA J. LINCOLN, 0000
MARK LEWIS LOEBEN, 0000
BRETT A. LOYD, 0000
ALBERT V. LUPENSKI, 0000
JEFFREY L. MACRANDER, 0000
KEVIN W. MAHAFFEY, 0000
BLAKE C. MAHAN, 0000
JEAN M. MAHAN, 0000
MICHAEL F. MAHON, 0000
MICHAEL K. MAJOR, 0000
WILLIAM J. MARTIN, 0000
JOSEPH Q. MARTINELLI, 0000
CHRISTINE D. MATTHEWS, 0000
TODD J. MCCUBBIN, 0000
JAMES F. MCDONNELL, 0000
JEFFREY J. MCGALLIARD, 0000
WILLIAM C. MCGOWAN, 0000
DALE A. MILLER, 0000
JAMES N. MILLER, 0000
DEBRA M. MILLETT, 0000
MYRA S. MILLS, 0000
STEPHEN E. MITTUCH, 0000
BONNIE B. MORRILL, 0000
SUSAN E. MORRIS, 0000
ROBERT S. MORTENSEN, 0000
RUSSELL A. MUNCY, 0000
MERRILL M. MURPHY, 0000
JEFFREY S. NAVIAUX, 0000
ROBERT J. NORDBERG II, 0000
TISH ANN NORMAN, 0000
TIMOTHY E. OBRIEN, 0000
GENE M. ODOM, 0000
THEODORE E. OSOWSKI, 0000
JON E. OSTERTAG, 0000
DOUGLAS C. OTTO, JR., 0000
MARK H. PANTONE, 0000
STEVEN B. PARKER, 0000
SCOTT E. PATNODE, 0000
DAVID P. PAVEY, 0000
JEFFREY T. PENNINGTON, 0000
FREDDIE D. PERALTA, 0000
PERRY A. PETER, 0000
WAYNE R. PIERINGER, 0000
ALLEN B. PIERSON III, 0000
MICHAEL G. POPOVICH, 0000
DAVID C. POST, 0000
CLARICE G. PRESTON, 0000
MICHAEL L. RISCHAR, 0000
MICHAEL R. ROBERDS, 0000
JAMES M. ROBISON, 0000
SEBASTIAN ROMEO, 0000
MARK A. ROSS, 0000
VINCENT N. ROSS, 0000
ROBERT C. RUSNAK, 0000
PATRICK H. RYAN, 0000
MARLA A. SANDMAN, 0000
ANNETTE M. SANKS, 0000
JAMES F. SCULERATI, 0000
ANTHONY J. SEELY, 0000
ROBERT HARDING SHEPHERD, 0000
EDWARD J. SLOSKY, 0000
BRIAN D. SPINO, 0000
PAUL E. SPRENKLE, JR., 0000
ROBERT A. STRAW, 0000
MATTHEW D. SWANSON, 0000
MARK E. SWINEY, 0000
FREDERICK J. TANIS, 0000
NEVIN J. TAYLOR, 0000
CRAIG A. THOMAS, 0000
JOHN W. THOMPSON, 0000
RALPH THOMPSON, JR., 0000
ROBERT K. THOMPSON, 0000
JON W. THORELL, 0000
KENT A. TOPPERT, 0000
PETER B. TRAINER, 0000
KEVIN B. TRAYER, 0000
JOHN N. TREE, 0000
JENNIFER LYNN TRIPLETT, 0000
TAMI F. TURNER, 0000
MATT A. TYYKILA, 0000
ERIC D. VANDER LINDEN, 0000
AARON G. VANGELISTI, 0000
MARK D. VIJUMS, 0000
ARTHUR C. WEBER, JR., 0000
JUDY ANN WEHKING, 0000
STEVEN R. WHITE, 0000
JOE N. WILBURN, 0000
DELBERT R. WILLIAMSON, 0000
DEDRA K. WITHAM, 0000
CYNTHIA A. WONG, 0000
GLENN K. YOUNG, 0000
JAMES A. ZIETLOW, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant general

AZAD Y. KEVAL, 0000
TROY L. SULLIVAN III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LANCE A. AVERY, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be colonel

BILLY R. MORGAN, 0000

To be lieutenant colonel

MILTON M. ONG, 0000
FRANCISCO J. REY, 0000

To be major

JOSEPH R. LOWE, 0000

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

INAAM A. PEDALINO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DEMEA A. ALDERMAN, 0000
ERICKA R. ALEXANDER, 0000
ELBERT R. ALFORD IV, 0000
DAVID R. ANDREWS, 0000
GREGORY T. BALDWIN, 0000
ANGELA M. BLACKWELL, 0000
DAVID W. BRIDGES, 0000
FELICIA L. BURKS, 0000
PEDRO BURTONTAYLOR, 0000
LYNNE M. BUSSIE, 0000
CHARLES F. CAMBRON, JR., 0000
ASHWIN A. CHAND, 0000
GREGORY W. CHAPMAN, 0000
MARK S. CHOJNACKI, 0000
TIMOTHY J. CHRISTISON, 0000
GREGORY A. COLEMAN, 0000
ROBERT A. CORBY, 0000
MARK E. CRUISE, 0000
MELISSA M. CURRERILEVESQUE, 0000
TANYA M. DEAR, 0000
NATHANIEL R. DECKER, 0000
JACQUELINE DENT, 0000
CHARLES V. DIBELLO, 0000
TROY M. DILLON, 0000
MICHAEL D. DINKINS, 0000
JEFFREY A. EYINK, 0000
THOMAS S. FARMER, 0000
DEAN K. FARREY, 0000
SAMUEL R. GONZALES, 0000
DOLPHIS Z. HALL, 0000
TERESA M. HEATH, 0000
RACHELLE A. HEBERT, 0000
ALISHA N. HENNING, 0000
TEOFILO A. HENRIQUEZ, 0000
LAURA J. HURST, 0000
TRAVIS J. INGRODI, 0000
DONALD E. KOTULAN, 0000

VICTORIA LIA, 0000
CHARLES E. MAREK, JR., 0000
CHESTER L. MARTIN, 0000
LEE M. NENORTAS, 0000
JOAN H. NEWBERNE, 0000
LAURIE V. PETERS, 0000
MARK D. REYNOLDS, 0000
STEPHANIE K. RYDER, 0000
KEVIN M. SCHULTZ, 0000
VIRGIL L. SCOTT, 0000
DENISE SEATON, 0000
ANTHONY L. SHAVER, JR., 0000
GERALD I. SMITH, JR., 0000
TIMOTHY W. SMITH, 0000
JAY B. SNODGRASS, 0000
DANIEL T. STERNEMANN, 0000
DOUGLAS E. STEVENS, 0000
MARY E. STEWART, 0000
TRACIE L. SWINGLE, 0000
MICHAEL D. TAPLIN, 0000
TRACIE G. TATE, 0000
JENNIFER M. THERIAULT, 0000
PAMELA D. TOWNSENDATKINS, 0000
KEITH L. WAID, 0000
PHILIP H. WANG, 0000

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

THERESA D. CLARK, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

LEE E. ACKLEY, 0000
DONNATA H. ANTOINE, 0000
ALVIN F. BARBER, JR., 0000
RICHARD T. BARKER, 0000
JAMIE A. BARNES, 0000
ERIC G. BARNEY, 0000
CHARLES J. BEATTY, JR., 0000
STACY C. BENEDICT, 0000
ANGELICA BLACK, 0000
MICHAEL S. BOGAARD, 0000
TIRSIT A. BROOKS, 0000
CHET K. BRYANT, 0000
CANG QUOC BUI, 0000
ERIC J. CAMERON, 0000
SCOTT L. CARBAUGH, 0000
FRANCISCO J. CATALA, 0000
DEBORAH A. CLARK, 0000
DOUGLAS A. CLARK, 0000
HEIDI L. CLARK, 0000
JASON E. COOPER, 0000
LEAH V. CROSS, 0000
MICHAEL J. CUOMO, 0000
LINDA L. CURRIER, 0000
JOHN A. DALOMBA, 0000
MINDY L. DAVISON, 0000
MICHAEL F. DETWEILER, 0000
WARREN C. DIAL, 0000
THOMAS J. DOKER, 0000
MICHAEL E. DUNLOP, 0000
KEVIN L. ECKERSLEY, 0000
DAVID A. EISENACH, 0000
JAMES E. ELWELL, 0000
TROY P. FAABORG, 0000
MICHAEL L. FINK, 0000
STEFFANIE S. FISCHER, 0000
LAURIE A. FLAGGINACIO, 0000
DAVID A. FOLMAR, 0000
LORENZO D. GABIOLA, 0000
KELLY J. GAMBINOSHIRLEY, 0000
JAMES M. GARMAN, 0000
GREG J. GARRISON, 0000
BRUCE A. GOPLIN, 0000
PHILIP A. GRIFFITH, 0000
JULIE K. HARRIS, 0000
GREGORY S. HENDRICKS, 0000
MELISSA HERGAN, 0000
ANGELA L. HESTER, 0000
GEORGE A. HESTILOW, 0000
KEITH D. HIGGINBOTHAM, 0000
BRIAN W. HOBBS, 0000
PATRICK J. HOUDE, 0000
VINA E. HOWARTH, 0000
WEILUN HSU, 0000
TERESA M. HUGHES, 0000
CHAD A. JOHNSON, 0000
BRIAN A. KATEN, 0000
NOREEN M. KERN, 0000
BRADLEY R. KIME, 0000
EDWARD D. KOSTERMAN III, 0000
CHRISTOPHER M. KURINEC, 0000
KEYE S. LATIMER, 0000
LISA S. LEE, 0000
TAMY K. LEUNG, 0000
THOMAS N. MAGEE, 0000
CARLOS J. MALDONADO, 0000
MICHAEL D. MCCARTHY, 0000
JENNY L. MCCORKLE, 0000
ANN D. MCMANIS, 0000
SEAN J. MCNAMARA, 0000
HANS J. MEISSNEST, 0000
MELISSA R. MEISTER, 0000
CORY J. MIDDEL, 0000
CHARLES E. MILLER, 0000
MITZI M. MITCHELL, 0000
WILLIAM R. MOORE, 0000
PRZEMYSLAW K. NIEMCZURA, 0000
JOHN V. NOTABARTOLO, 0000
ERIC J. OGLESBEE, 0000
SCOTT E. OLECH, 0000
SCOTT E. OLSON, 0000
ANTHONY G. PERRY, 0000
RAMESH PERSAUD, 0000
JOANNA L. RENTES, 0000
BRADLEY S. REYMAN, 0000
VAN G. ROBERTS, 0000
MOCHA L. ROBINSON, 0000
ETHIEL RODRIGUEZ, 0000
MATTHEW W. SAKAL, 0000
FERNANDO SANTANA, 0000
XIOMARA SANTANA, 0000
ERIC J. SAWVEL, 0000
LISA M. SELTHON, 0000
ROBERT J. SHAPIRO, 0000
DANIEL A. SHAW, 0000
KATHRYN B. SHAW, 0000
JENNIE S. SHEFFIELD, 0000
JOHN E. SIMONS, 0000
ANTHONY J. SPENCER, 0000
SCOTT W. STEIGERWALD, 0000
TIMOTHY W. STOUT, 0000
DENNIS P. TANSLEY, 0000
LEONARDO E. TATO, 0000
MARK A. TAYLOR, 0000
TROY P. TODD, 0000
TERRY R. VANWORMER, 0000
CAROL A. WEST, 0000
JANET I. WEST, 0000
ROBBIE L. WHEELER, 0000
IAN P. WIECHERT, 0000
KRISTI P. WIECHERT, 0000
CHRISTOPHER M. WILCOX, 0000
JOSEPH A. WILLIAMS, 0000
CLAYTON D. WILSON III, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

SAID R. ACOSTA, 0000
ROY G. ALLEN III, 0000
MICHELL A. ARCHEBELLE, 0000
JAMES R. ASSELIN, 0000
JONATHAN O. BAET, 0000
SUZETTE M. BARBER, 0000
MICHAEL A. BASLER, 0000
SHIRLEY L. BELLONI, 0000
ISABELLA M. BERGERON, 0000
KIMBERLY BOSWELLYARBROUGH, 0000
STEVEN J. BRADLEY, 0000
JENNIFER J. BRATZ, 0000
BETH A. BRENEK, 0000
PHIL A. BROBERG, 0000
STEVEN A. BROWN, 0000
MELANIE J. BURJA, 0000
JOVINA G. BUSCAGAN, 0000
HELDA J. CAREY, 0000
MIEV Y. CARHART, 0000
REGIS S. CARR, 0000
KERRY E. CASTILLO, 0000
MARY H. CERDA, 0000
PAULA M. CHAVIS, 0000
TARA R. CHAVIS, 0000
TAMI R. CHILDERS, 0000
KURT D. COLE, 0000
KEVIN M. COX, 0000
DAVID A. DELANG, 0000
GAIL L. DYER, 0000
SHANNON J. DZURY, 0000
CARLOS EDWARDS, 0000
REBECCA S. ELLIOTT, 0000
JEFFREY R. ENSINGER, 0000
KATHRYN P. ESCALERA, 0000
CHERYL R. ESTY, 0000
SUSAN J. EVITTS, 0000
DEBORAH E. FELTH, 0000
LISA L. FERGUSON, 0000
BARBARA B. FIELDS, 0000
LEONTYNE H. FIELDS, 0000
COURTNEY D. FINKBEINER, 0000
STEVEN R. FISHER, 0000
MILA B. FRENCH, 0000
DONNA M. FRIEDLINE, 0000
EARNEST FRY, 0000
MICHELLE GAUTHIER, 0000
BRIAN M. GLENN, 0000
SHELLY D. GOINS, 0000
ERIC A. GONZALES, 0000
CHRISTOPHER A. GOODENOUGH, 0000
WESLEY H. GREGG, 0000
ANDREW J. GUNTHER, 0000
KRISTINE M. HACKETT, 0000
JULIE L. HANSON, 0000
MELIZA HARRIS, 0000
ROBERT M. HEIL, 0000
SHANNON S. HILL, 0000
LORIE A. HIPPLE, 0000
CHARLES L. HORNBACK, 0000
CHRISTIE L. HUME, 0000
ZENOBIA A. JAMES, 0000
JOSE P. JARDIN III, 0000
JEFFREY S. JEDYNAK, 0000
DAVID L. JOHNSON, 0000
MISCHA A. JOHNSON, 0000
JANET S. JONES, 0000
SAADIA R. JONES, 0000
KARYN L. KELLY, 0000
CHRISTOPHER J. KIMBLE, 0000
BRIAN D. KITTELSON, 0000
ERIN J. KNIGHTNER, 0000
WINIFRED G. KOEHLER, 0000
CHARLOTTA M. LEADER, 0000
VICTOR A. LEDFORD, 0000
LAURA J. LEWIS, 0000
CHERYL C. LOCKHART, 0000
CAROL A. MARTA, 0000
KATHY E. MARTIN, 0000
MA ADELVER Q. MARTIN, 0000
KRISTEN R. MCCABE, 0000
MICHAEL J. MCCARTHY, 0000
JERRY L. MCCARTNEY, 0000
JULIE K. MILLER, 0000
NANCY L. MILLER, 0000
GEOFFREY J. MITTELSTEADT, 0000
RUTH A. MONSANTOWILLIAMS, 0000
SHARON F. MOSS, 0000
KATHLEEN A. MYERS, 0000
LISA G. ODOM, 0000
SUSAN M. PARDAWATTERS, 0000
TERRY L. PARTHEMORE II, 0000
LUIS E. PEREZ, 0000
MICHAEL A. POWELL, 0000
SCOTT D. POYNTER, 0000
TONYA M. PRESSLEY, 0000
MARK A. PRILIK, 0000
KRISTINE M. RATLIFF, 0000
KIMBERLY D. REED, 0000
JASON N. RICHARD, 0000
DONALD G. RUCH, 0000
MARIA R. SACCO, 0000
JOSE E. SANCHEZ, 0000
YVETTE M. SANCHEZ, 0000
GARY L. SCHOFIELD, JR., 0000
RICKY L. SCHOTT, 0000
SHELLEY A. SHELTON, 0000
KELLY S. SIMPSON, 0000
TANIA R. SIMS, 0000
WALTER SINGH, 0000
VONNITA SNELL, 0000
RANDAL A. SNOOTS, 0000
JENNY P. SPAHR, 0000
NEAL A. STINE, 0000
AMY L. SWARTHOUT, 0000
STEVE J. SZULBORSKI, 0000
DONNA C. TEW, 0000
WILLIAM E. THOMS, JR., 0000
MELONY A. VALENCIA, 0000
PHUONG K. VANECEK, 0000
RONALD G. VENESKEY, 0000
BETTY A. VENTH, 0000
CYNTHIA D. WARWICK, 0000
WENDY WHITELOW, 0000
LEWIS S. WILBER, 0000
JOHN M. WILLIAMSON, 0000
KRISTINE WILLINGHAM, 0000
BERNADETTE T. WISOR, 0000
MELINDA L. WOODS, 0000
CYNTHIA F. YAP, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JASON E. MACDONALD, 0000
DEREK P. MIMS, 0000

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

JEFFREY P. SHORT, 0000

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

SAQIB ISHTEEAQUE, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

WANDA L. HORTON, 0000
WILLIAM H. MUTH, 0000
RUTH SLAMEN, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

DAVID J. BARILLO, 0000

To be lieutenant colonel

BRUCE E. PORTER, 0000
DANIEL J. REDDY, 0000
JOHN J. VOGEL, 0000

To be major

IAN D. COLE, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JOSEPH B. DORE, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

WILLIAM J. HERSH, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JAMES C. CUMMINGS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

EUGENE W. GAVIN, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

BRUCE H. BAHR, 0000
JEFFREY M. BREOR, 0000
ALLEN D. FERRY, 0000
GEORGE R. GWALTNEY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DAVID A. BRANT, 0000
MICHAEL A. BROWN, 0000
LESLIE BURTON, 0000
CHERYL A. CARSON, 0000
JUDITH A. DAVENPORT, 0000
PATRICK W. EDWARDS, 0000
CORLISS GADSDEN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

HAROLD A. FELTON, 0000
ARLAND O. HANEY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ANNE M. BAUER, 0000
MICHAEL W. BIHR, 0000
JO A. MCELLIGOTT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DEBORAH G. DAVIS, 0000
MARDONNA R. HULM, 0000
PATRICK J. MCKENZIE, 0000
DEBRA M. SIMPSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RUBEN ALVERO, 0000
ANDRE K. ARTIS, 0000
CARLOS E. BERRY, 0000
RICHARD D. BRANTNER, 0000
PAUL S. BROWN, JR., 0000
ROBERT C. CAMPBELL, 0000
WENDY P. CARTER, 0000
JONG H. CHOI, 0000
DAVID K. COCHRAN, 0000
JOAQUIN CORTIELLA, 0000
HOWARD F. DETWILER, 0000
LEON H. ENSALADA, 0000
JOHN M. FITZSIMMONS, 0000
GILBERT R. GHEARING, 0000
SHAWN D. GLISSON, 0000
LORI E. HARRINGTON, 0000
CAREY S. HILL, 0000
PAUL C. KIDD, 0000
MAURICE L. KLIEWER, 0000
JOEL M. KUPFER, 0000
CAL S. MATSUMOTO, 0000
MAX B. MITCHELL, 0000
CLARK A. MORRES, 0000
MARK R. MOUNT, 0000
DAVID P. ODONNEL, 0000
LORRIE J. OLDHAM, 0000
FRANK A. PIGULA, 0000
DAVID M. PRESTON, 0000
RONALD M. RENE, 0000
EUGENE R. ROSS, 0000
MARK C. RUMMEL, 0000
DAVID A. SEIDL, 0000
STEPHEN L. STYRON, 0000
LONNIE L. VICKERS, 0000
SIMON T. VILLA, 0000
FRANC WALLACE, 0000
HAE S. YUO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RONALD L. BONHEUR, 0000
MATHEW J. BRADY, 0000
WALTER E. COLBERT, 0000
PRISCILLA J. CUTTS, 0000
MICHAEL E. DUNN, 0000
CATHLEEN A. HARMS, 0000
DARLENE A. MCCURDY, 0000
MICHAEL D. STOWELL, 0000
DAVID S. WERNER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

GERARD P. CURRAN, 0000
CYNTHIA J. MORIARTY, 0000
MARK TRANOVICH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JEFFREY A. WEISS, 0000
RICHARD E. WOLFERT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

CHARLES S. OLEARY, 0000
SHEPARD B. STONE, 0000
GARY B. TOOLEY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

PATRICK S. ALLISON, 0000
BRUCE J. BIKSON, 0000
THOMAS E. DUNDON, 0000
SUSAN M. FEELEY, 0000
WILLIAM S. HUNT, 0000
CATHY JOSEPH, 0000
LOUIS D. KAVETSKI, 0000
WALTER M. LEE, 0000
CHARLES E. MIDDLETON, 0000
SHAOFAN K. XU, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

EDWARD B. BROWNING, 0000
DARRYL M. BURTON, 0000
MIRIAM CRUZ, 0000
ZYGMUNT F. DEMBEK, 0000
REBECCA A. DYER, 0000
RUSSELL J. FLEMMING, 0000
MARK GIBSON, 0000
ROMAN G. GOLASH, 0000
ROGER M. GREEN, 0000
ANNE M. GUEVARA, 0000
JEFFERY S. HAYNES, 0000
JEAN M. HULET, 0000
JOHN L. JANSKY, 0000
KENNETH S. JETTER, 0000
MONICA B. JIMENEZ, 0000
MILFORD J. JONES, 0000
JAMES H. MASON, 0000
MARYANN MCNAMARA, 0000
KULTHOUM A. MEREISH, 0000
RANDY J. MIZE, 0000
MICHAEL T. NEWELL, 0000
JOHN L. ORENDORFF, 0000
JACKSON A. PATTERSON, JR., 0000
JAMES C. PIERCE, 0000
LESLIE R. RABINE, 0000
ROBIN A. RAMSEY, 0000
ROBERT F. RICHARDSON, 0000
CHARLES R. STASENKA, 0000
DANNY C. TYE, 0000
BILLIE J. WISDOM, JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

SANDRA G. APOSTOLOS, 0000
EUNICE J. BANKS, 0000
ELIZABETH A. BATTALORA, 0000
MARY T. BENNETT, 0000
MARCIA E. CALLENDER, 0000
GAYA CARLTON, 0000
MARCIA E. CATLETT, 0000
CHERYL CELOTTO, 0000
MICHELE CIANCI, 0000
LINDA K. CONNELLY, 0000
GEORGEANN L. CONSTANTINO, 0000
BRENDA A. DIXON, 0000
MICHAEL T. FRAZIER, 0000
WANDA E. FRIDAY, 0000
JAMES J. GARDON, 0000
HENRY W. GILES, JR., 0000
DEBRA A. GOMES, 0000
CHARLENE K. GONZALEZ, 0000
DEBORAH J. HALL, 0000
NANCY J. HEPLER, 0000
CHERYL A. HICKERT, 0000
DARLENE M. HINOJOSA, 0000
JERALDINE JACKSON, 0000
THOMAS M. KURLICK, 0000
GEORGE A. LUENA, 0000
HELEN D. MEELHEIM, 0000
ROBERT B. MONSON, 0000
BARBARA A. MOORE, 0000
KENNETH P. MURPHY, 0000
JEARLINE MURRAY, 0000
SARAH M. NORDQUIST, 0000
CHRISTOPHER A. OCONNELL, 0000
MICHELLE A. OLDEN, 0000
NAN W. PARK, 0000
ANTHONY M. PASQUALONE, 0000
DEANNA J. PATTERSON, 0000
MARTIN A. PHILLIPS, 0000
PHYLIS C. RAGLAND, 0000
CHRISTINE T. REM, 0000
MIRIAM B. ROSA, 0000
EMILY S. RUSSELL, 0000
CHRISTINE A. SAUTTER, 0000
MICHELE M. SCHNEEWEIS, 0000
SANTIAGO B. STAUNING, 0000
CAROL M. STICKEL, 0000
DOLORES TARIN, 0000
THERESA W. TAYLOR, 0000
VIRGINIA M. THOMAS, 0000
DAWN A. VUICICH, 0000
DEBRA H. WRIGHT, 0000
MARILYN YERGLER, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RUSSELL L. BERGEMAN, 0000
JAMES K. WALKER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JULIAN D. ALFORD, 0000
JAMES S. ALLEY, 0000
RICHARD E. ANDERS, 0000
FRANK S. ARNOLD, 0000
PHILIP J. BETZ, JR., 0000
ANDREW D. BIANCA, 0000
JAMES W. BIERMAN, JR., 0000
SEAN C. BLOCHBERGER, 0000
PHILLIP W. BOGGS, 0000
COREY K. BONNELL, 0000
CARMINE J. BORRELLI, 0000
EDMUND J. BOWEN, 0000
MICHAEL R. BOWERSOX, 0000
ROBERT M. BRASSAW, 0000
GREGORY T. BREAZILE, 0000
JAMES M. BRIGHT, 0000
RAPHAEL P. BROWN, 0000
KURT J. BRUBAKER, 0000
BRIAN K. BUCKLES, 0000
SCOTT D. CAMPBELL, 0000
JOHN W. CARL, 0000
IRA M. CHEATHAM, 0000
MARY J. CHOATE, 0000
ROBERT C. CLEMENTS, 0000
DAVID L. COGGINS, 0000
JEFFREY T. CONNER, 0000
ROBERT A. COUSER, 0000
DENNIS A. CRALL, 0000
DANIEL J. DAUGHERTY, 0000
JEFFREY P. DAVIS, 0000
MARSHALL DENNEY III, 0000
JEFFERSON L. DUBINOK, 0000
JEFFREY W. DUKES, 0000
CHRISTOPHER B. EDWARDS, 0000
NORMAN R. ELIASEN, 0000
SCOTT E. ERDELATZ, 0000
DANIEL P. ERMER, 0000
CHRISTOPHER L. FRENCH, 0000
RICHARD W. FULLERTON, 0000
JEFFREY W. FULTZ, 0000
DAVID J. FURNESS, 0000
STEPHEN J. GABRI, 0000
JOSEPH E. GEORGE, 0000
JAMES P. GFRERER, 0000
ANDREW J. GILLAN, 0000
PATRICK A. GRAMUGLIA, 0000
RONALD A. GRIDLEY, 0000
WILLIAM D. HARROP III, 0000
JAY L. HATTON, 0000
DREXEL D. HEARD, SR., 0000
JAMES H. HERRERA, 0000
HARRY J. HEWSON III, 0000
JEFFREY Q. HOOKS, 0000
STEPHEN M. HOYLE, 0000
PAUL E. HUXHOLD, 0000
CHARLES H. JOHNSON III, 0000
ANDREW R. KENNEDY, 0000
MICHAEL W. KETNER, 0000
KEVIN J. KILLEA, 0000
SEAN C. KILLEEN, 0000
JOSEPH H. KNAPP, 0000
ROBERT C. KUCKUK, 0000
JASON J. LAGASCA, 0000
MICHAEL J. LEE, 0000
MICHAEL A. LESAVAGE, 0000
MICHAEL P. MAHANEY, 0000
CHRISTOPHER J. MAHONEY, 0000
KATHY J. MALONEY, 0000
GREGORY L. MASIELLO, 0000
DOUGLAS E. MASON, 0000
WILLIAM H. MAXWELL, 0000
CHRISTOPHER T. MAYETTE, 0000
EDWARD J. MAYS, 0000
MITCHELL J. MCCARTHY, 0000
BRIAN K. MCCRARY, 0000

DAVID W. MCMORRIES, 0000
ERIC M. MELLINGER, 0000
DUNCAN S. MILNE, 0000
JAMES J. MINICK, 0000
GREGORY B. MONK, 0000
JACK P. MONROE IV, 0000
TIMOTHY S. MUNDY, 0000
ANDREW J. MURRAY, 0000
MARK G. MYKLEBY, 0000
SAMUEL C. NELSON III, 0000
JOHN M. NEUMANN, 0000
RANDALL P. NEWMAN, 0000
LAWRENCE J. OLIVER, 0000
DAVID A. OTTIGNON, 0000
JAMES R. PARRINGTON, 0000
WILLIAM G. PEREZ, 0000
PAUL A. POND, 0000
PETER D. PONTE, 0000
DAVID L. REEVES, 0000
MARY H. REINWALD, 0000
JOSEPH P. RICHARDS, 0000
PHILLIP J. RIDDERHOF, 0000
DAVID A. ROBINSON, 0000
JAMES L. RUBINO, JR., 0000
JOSEPH RUTLEDGE, 0000
JON E. SACHRISON, 0000
BRYAN F. SALAS, 0000
MICHAEL SALEH, 0000
ROBERT C. SCHUTZ IV, 0000
JOSEPH F. SHRADER, 0000
PHILIP C. SKUTA, 0000
ANDREW H. SMITH, 0000
ERIC M. SMITH, 0000
RUSSELL E. SMITH, 0000
STEPHANIE C. SMITH, 0000
DANIEL J. SNYDER, 0000
NANCY A. SPRINGER, 0000
ALAN L. THOMA, 0000
PAUL TIMONEY, 0000
THOMAS C. WALSH, JR., 0000
THOMAS D. WEIDLEY, 0000
STEPHEN A. WENRICH, 0000
BRENT S. WILLSON, 0000
CHRISTOPHER I. WOODBRIDGE, 0000
JEFFREY R. WOODS, 0000
PETER E. YEAGER, 0000
MICHAEL W. YOUNG, 0000
PHILIP J. ZIMMERMAN, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JOHN M. DOREY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

THOMAS M. CASHMAN, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

THOMAS P. CARROLL, 0000
GARY V. PASCUA, 0000

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

DAVID J. ROBILLARD, 0000

To be lieutenant commander

GREGORY A. FRANCIOCH, 0000
TUAN NGUYEN, 0000
SHERRY W. WANGWHITE, 0000

WITHDRAWALS

Executive message transmitted by the President to the Senate on January 23, 2008 withdrawing from further Senate consideration the following nominations:

ANDREW G. BIGGS, OF NEW YORK, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPIRING JANUARY 19, 2013, VICE JAMES B. LOCKHART III, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 2007.

ANDREW G. BIGGS, OF NEW YORK, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR A TERM EXPIRING JANUARY 19, 2013, VICE JAMES B. LOCKHART III, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE, WHICH WAS SENT TO THE SENATE ON MAY 16, 2007.

E. DUNCAN GETCHELL, JR., OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE H. EMORY WIDENER, JR., RETIRED, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 6, 2007.