$45,500 per American citizen and $127,500 if we just count the taxpayers in America. Each day the United States pays another $1.273 billion in interest alone on this debt.

To be clear, the amendment could result in a reduction of some FAA services. This is a reality that setting the tough spending priorities will cause some services potentially to be trimmed and certainly unnecessary functions to be eliminated.

But I do not think the debate over this amendment can occur outside the context of the difficult spending decisions that we are going to need to consider in the next several weeks. We literally have to start somewhere, and almost everywhere is going to require some sacrifice.

The House of Representatives will consider cuts to the FAA funding levels this week and, likewise, this body will be required to do the same.

I appreciate the work that Senator PAUL has done and hope that my colleagues will strongly consider supporting his amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CASEY). The clerk will call the roll.

The 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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 PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that when the disposition of the Paul amendment occurs, the Senate proceed to the consideration of H.R. 514, which was received from the House and is at the desk; that the Reid-McConnell substitute amendment, which is at the desk, be agreed to; that there be up to 30 minutes of debate equally divided between the two leaders or their designees prior to the vote on passage of the bill, as amended; that there be no further amendments or motions in order to the bill prior to the vote, and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I express my appreciation to everyone involved. It has been a difficult issue, but I will put on the record what I have told a number of Senators personally, and that is that we will, prior to this expiration occurring, bring up the PATRIOT Act and have an opportunity for an extended period of time—a week at least—to offer amendments and do whatever people feel is appropriate on this bill.

I have talked to a couple of Senators who have told me specifically that they want to offer amendments. Although I didn't agree I would support their amendments—one was a Democrat and one was a Republican—I said that is what we should be able to do, to set this up so they can offer their amendments. And I will do whatever I can to make sure we move forward on this legislation in ample time so that we can pass this PATRIOT Act for a more extended period of time, which is so important to the security of this country. I know people have problems with it, and that is why we are going to have the amendment process.

The PRESIDING OFFICER. All time is expired on the amendment.

Mr. REID. Mr. President, I move to table amendment No. 21 offered by the Senator from Kentucky, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

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

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—51

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Reed
Bingaman	Johnson (SD)	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (OH)	Landrieu	Schumer
Cantwell	Lautenberg	Shaheen
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Conrad	Manchin	Udall (NM)
Coons	McCaskill	Warner
Durbin	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden

NAYS—47

Alexander	Ensign	McConnell
Ayotte	Enzi	Moran
Barrasso	Graham	Murkowski
Blunt	Grassley	Paul
Boozman	Hatch	Portman
Brown (MA)	Hoeven	Risch
Burr	Hutchison	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker
DeMint	McCain	

NOT VOTING—2

Kerry	Pryor

The motion was agreed to.

VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the vote in relation to Paul amendment No. 21 to the FAA reauthorization bill. If I had attended today's session, I would have voted in opposition to that amendment and would have supported any motion to table that amendment.•

FISA SUNSETS EXTENSION ACT OF 2011

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the following measure, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 514) to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 relating to access to business records, individual terrorists as agents of foreign powers, and roving wiretaps until December 8, 2011.

The PRESIDING OFFICER. Under the previous order, the substitute amendment is agreed to, and there will be 30 minutes equally divided for debate prior to a vote.

The amendment (No. 90) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''FISA Sunsets Extension Act of 2011''.

SEC. 2. EXTENSION OF SUNSETS OF PROVISIONS RELATING TO ACCESS TO BUSINESS RECORDS, INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS, AND ROVING WIRETAPS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking ''February 28, 2011'' and inserting ''May 27, 2011''.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3742; 50 U.S.C. 1801 note) is amended by striking ''February 28, 2011'' and inserting ''May 27, 2011''.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, in a few minutes we are going to vote on a 3-month extension of the expiring provisions of the PATRIOT Act. I will support this extension because it gives the Senate time to properly consider this critically important legislation. But before I support any additional extensions of the PATRIOT Act, I believe we should have an honest discussion about changes and reforms that are necessary to protect the constitutional rights of innocent Americans. It is worth taking a moment to reflect on the history of the PATRIOT Act.

The PATRIOT Act was passed almost 10 years ago after the 9/11 terrorist attack. Ground Zero was still burning when President Bush asked Congress to give him new authority to fight terrorism. Congress responded, passing the PATRIOT Act by an overwhelming bipartisan vote, including my own. It was a unique moment in our history.

But even then, many were concerned that the PATRIOT Act might go too far when it came to our constitutional rights and freedoms. As a result, we

put an insurance policy in the law, a sunset clause on the PATRIOT Act's most controversial provisions. I believe that was a thoughtful move on the part of the Senate and the House. We knew that we were in a very emotional state because of the dramatic loss of life and fear that followed after the attacks on 9/11. We wanted to reflect on some of the changes and authority given to the government at a later time.

I voted for the PATRIOT Act, but I soon realized it gave too much power to the government in some areas, without judicial and Congressional oversight. So 2 years after the PATRIOT Act became law, I led a bipartisan group of Senators to introduce the SAFE Act, legislation to reform the PATRIOT Act. The SAFE Act was supported not only by the American Civil Liberties Union but also by the American Conservative Union and Gun Owners of America. It was an extraordinary coalition. Progressive Democrats and conservative Republicans came together across the partisan divide, with the understanding that Americans believed we can be both safe and free. We wanted to retain the expanded powers of the PATRIOT Act but place some reasonable limits on those powers within the bounds of the Constitution.

In 2005, the first time Congress reauthorized the PATRIOT Act, some reforms of the SAFE Act were included in the bill. Many were not. So there are still significant provisions in the PATRIOT Act which cause concern to this Senator. The FBI is still permitted to obtain a John Doe roving wiretap that does not identify the person or the phone that will be wiretapped.

In other words, the FBI can obtain a wiretap without telling a court who they want to wiretap or where they want the place the wiretap itself. In garden-variety criminal cases, the FBI is still permitted to conduct what is known as sneak-and-peek searches of a home without notifying the homeowner about the search until some later time.

We now know the vast majority of sneak-and-peek searches take place in cases that do not involve terrorism in any way. A national security letter, or NSL, is a form of administrative subpoena issued by the FBI. We often hear NSLs compared to grand jury subpoenas. But unlike a grand jury subpoena, a national security letter is issued without the approval of a grand jury or even a prosecutor. And unlike the grand jury subpoena, the recipient of a national security letter is subject to a gag order at the FBI's discretion.

The PATRIOT Act greatly expanded the FBI's authority to NSLs. An NSL now allows the FBI to obtain sensitive personal information about innocent Americans, including library records, medical records, gun records, and phone records, even when there is no connection whatsoever to a suspected terrorist or spy.

The Justice Department's inspector general concluded that this standard ''can be easily satisfied.'' This could lead to government fishing expeditions that target, unfortunately, innocent Americans.

For years we have been told there is no reason to be concerned about this broad grant of power to the FBI. In 2003, Attorney General Ashcroft testified to the Judiciary Committee that librarians who raised concern about the PATRIOT Act were ''hysterics,'' in the Attorney General's words, and ''the Department of Justice has neither the staffing, the time, nor the inclination to monitor the reading habits of Americans.''

But we now know, many years later, the FBI has, in fact, issued national security letters for the library records of innocent Americans. For years we were told the FBI was not abusing this broad grant of power. But in 2007, the Justice Department's own inspector general concluded the FBI was guilty of ''widespread and serious misuse'' of the national security letter authority, and failed to report those abuses to Congress and a White House oversight board.

The inspector general reported that the number of NSL requests had increased exponentially from about 8,500 the year before the enactment of the PATRIOT Act to an average of more than 47,000 per year, and that even these numbers were significantly understated due to flaws in the FBI database.

I believe America can be both safe and free. We can retain the expanded powers of the PATRIOT Act but place some reasonable limit on them within our Constitution. I will support this extension so we have time to produce legislation of which we can all be proud. I know the chairman of the Judiciary Committee is on the floor to speak. I want to close by saluting him. I think he has taken a very professional approach. He has been completely open to this discussion of the provisions of this bill, and the offering of amendments. I plan to work with him and other members of the committee in good faith. I think this 3-month extension will give us time to expand the debate on this important constitutional issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Illinois for his comments.

In less than 2 weeks, the current short-term extension of three authorities authorized by the USA PATRIOT Act will expire. I thank the two leaders for working to ensure that everyone has the opportunity to consider the expiring provisions of the USA PATRIOT Act, and to do so in a way that ensures that these authorities do not lapse while the Republican majority in the House and new Senators consider these measures.

The bill I introduced on January 26, and that the Judiciary Committee is scheduled to consider this week, is based on the bill the Judiciary Committee considered and passed with a bipartisan majority last Congress.

It includes additional adjustments made at Senator KYL's suggestion after the committee reported the bill in 2009. I will urge the Judiciary Committee to report that legislation again, and I will urge the Senate to consider and pass the improvements to the USA PATRIOT Act that we have proposed, during this short, additional 90-day extension.

The original USA PATRIOT Act included important sunsets that were supported by both Republicans and Democrats. I believe that the sunsets suggested by Dick Armey back in 2001 have been a good thing. I have tried to conduct aggressive oversight of USA PATRIOT Act surveillance authorities since the bill was originally enacted in 2001. The sunsets have been helpful in that process. Accordingly, I do not support permanent extension of these surveillance authorities.

Nor do I support undercutting important oversight and government accountability with respect to these intelligence gathering tools. Instead, I support strengthening oversight while providing the intelligence community the certainty it needs to protect national security.

The bill I hope we will consider before May 27 would give the intelligence community the certainty it needs by extending these expiring authorities while also strengthening congressional and judicial oversight. This legislation is the result of bipartisan negotiations 2 years ago. It had the strong support of the administration.

The House bill we are amending was not the product of bipartisan agreement, or even an open debate in the House. It would extend the PATRIOT Act without improvement for the rest of the year. That is too little for too long.

I do not begrudge our friends in the House time to do their work, and for the new Republican majority to seek additional time to consider the expiring provisions of the PATRIOT Act. But it should not take a year to pass improvements to these provisions. Importantly, we should not extend this debate into an election year and risk that some will play politics with our national security.

With the 90-day extension that the leaders have proposed, we will be able to consider the USA PATRIOT Act Sunset Extension Act of 2011 and improve authorities that are otherwise set to expire.

Our bill can promote transparency and expand privacy and civil liberties safeguards in the law. It will increase judicial oversight of government surveillance powers that capture information on Americans.

I hope that ours is a package of reforms that all Americans can support. A bipartisan group of Senators on the Judiciary Committee voted in favor of

it in the last Congress, including Senator KYL and Senator CORNYN. Subsequent negotiations produced a package that was endorsed by the Attorney General and the Director of National Intelligence.

When Congress did not act on that negotiated package of reforms, but instead passed an extension of the expiring authorities until February 28, 2011, I took steps to see that key portions of the package were implemented administratively by the Department of Justice.

It is my hope that during this short extension Congress will pass the USA PATRIOT Act Sunset Extension Act of 2011 to codify the steps forward that the Attorney General has taken to implement parts of our legislative proposal administratively.

We can ensure that the progress in accountability and transparency that we achieved last year is not lost simply because it was never written into the statute.

In addition, we will have the opportunity to enact the parts of the bill that the Attorney General did not or could not adopt because they require a change in the statute. Chief among these is adding a new sunset on National Security Letters.

Second is repealing the presumption in favor of the government that a judge must honor when he or she reviews an application for a section 215 order for business records. The government does not need this presumption. In fact, the Attorney General endorsed the repeal of the presumption when he expressed his support for the bill in the prior Congress.

We can preserve the authorities that give law enforcement the tools it needs to protect national security. And we can ensure that inspectors general, Congress, and the public maintain vigilant oversight of the government, making sure these authorities are used properly and within constitutional bounds.

I urge all Senators to support the Senate amendment to H.R. 514 and then to support the USA PATRIOT Act Sunset Extension Act of 2011.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. I want to thank the majority leader for agreeing to allow a debate on this important legislation. We will have time to amend it in the next 3 months, discuss it fully.

When the PATRIOT Act was passed in the first place, it was passed in a hurry, without committee hearings, and in a climate of fear and anger after 9/11. Congress was sensitive to the fact that the fourth amendment was being abridged. That is why these legislative proposals were sunset. It was not just so we could pass them by unanimous consent without voting. It was done so we could review how well we are doing with these, and whether we are abridging the freedoms guaranteed under the fourth amendment.

There are a couple of things that bother me about the PATRIOT Act. No. 1, the national security letters. These have been mentioned previously, and I think the points are well taken. Some try to argue, oh, these are simply subpoenas so you can do anything you want. I think they are searches of private records and should be reviewed by a judge. But even if you argue that they were subpoenas, if you have a subpoena, your lawyer is allowed to make a motion to quash your subpoena, your lawyer is allowed to represent you.

In the craziness after 9/11, when the PATRIOT Act was passed, it was actually illegal to consult an attorney. If you were given a national security letter saying you were being investigated, you could go to jail for 5 years by telling your attorney. It is still in the law that you can go to jail for 5 years if you tell others. This is being done against U.S. citizens.

Many people argue for this saying: Oh, it is just foreign terrorists. National security letters have been written on 200,000 individuals and over 50 percent of them from the United States in the last 10 years.

In addition to the national security letters, this act expanded the use of what are called suspicious activity reports, where they snoop in your bank records. Not only does the government snoop in your bank records, they force the banks to do snooping for you. Two million records have been gone through, and we say: Well, are we getting terrorists? Yes; we are probably getting terrorists. But were we capturing terrorists under FISA when we had a judge's review? Yes. It was very rare that FISA ever turned down a warrant. But we just gave up. We blankly gave up the idea of judicial review.

This was a big deal. John Adams said this was the spark that got the Revolution going. When James Otis was talking about writs of assistance in the 1760s, the King was granting writs of assistance through his soldiers. Now we have essentially government agents, akin to soldiers, writing warrants.

It is ripe for abuse. Even the FBI, when they did their own internal investigation of the national security letters—they reviewed 1,000 of these national security letters, and they found that 10 percent of them were in error.

The other thing, for those who say: Oh, this is just a subpoena. It is just your bank records. No big deal, they should be weary of this: People have gone through the FISA Court and been turned down under section 215 and not gotten a warrant and they have done an end-around and gotten national security letters.

I think it is something so basic to our constitutional Republic. I tell people on and on, I am a big defender of the second amendment. But you cannot have the second amendment unless you defend the first amendment. You cannot have the second amendment unless you defend the fourth amendment.

We need to defend the right to be free of search and seizure. People need to look back and say: Did the FISA Court work? The FISA Court rarely turned anything down as far as getting warrants. But at the very least, there was independent judicial review, which is a very important part of our historical jurisprudence and I think should be guarded and protected.

I think, in the fear after 9/11, we did not debate these things fully. We should have a debate. There is a wide range of people on both the left and the right who do believe in civil liberties. I think it is time we do review these. I will stand in the next several months and try to promote this discussion. I think it is a good time to review and revisit the PATRIOT Act.

I will vote against the extension of the PATRIOT Act because I do not think it is doing full justice to the fourth amendment, and I think it is very important we have judicial review before we allow government to investigate and search our private lives.

Mr. President, I yield back.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for 10 minutes.

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

Mrs. FEINSTEIN. Mr. President, I come to the floor as the chair of the Intelligence Committee of the Senate and also as a member of the Judiciary Committee, so I have been part of the PATRIOT Act and the FISA Act discussions.

Let me clear up one thing for the distinguished Senator from Kentucky: Nothing in what is before us today affects national security letter sections of the act. Let me repeat that because I have heard this presented on the floor, I have seen it in editorials in the newspapers, and nothing in what is on the floor today affects the NSL sections—of which there are several in various statutes—of the PATRIOT Act.

There are three specific sections that are affected, and I will get to them in a moment.

Let me begin by saying I support the Reid-McConnell amendment to H.R. 514. Let me point out that last Wednesday the Secretary of Homeland Security, Janet Napolitano, testified before the House Homeland Security Committee, and here is what she said:

> In some ways, the threat today may be at its most heightened state since the attacks nearly 10 years ago.

In testimony to the House Intelligence Committee last week, the Director of National Intelligence, James Clapper, wrote that:

> . . . it is impossible to rank—in terms of long-term importance—the numerous, potential threats to the U.S. national security. The United States no longer faces—as in the Cold War—one dominant threat. Rather, it is the multiplicity and interconnectedness of potential threats—and the actors behind them—that constitute our biggest challenge.

So it is clear the threat against the United States from terrorism, cyber attack, the proliferation of weapons of

mass destruction, and others is at a very high level. Intelligence is our best tool in keeping America secure.

I see this intelligence day after day after day. The Intelligence Committee hears testimony week after week after week. I believe all members of the Intelligence Committee are behind the Reid-McConnell bill.

So that is the framework in which these three expiring provisions come before us. Without them, our law enforcement and intelligence agencies would lack important tools to protect this Nation. These are tools that have been used to great advantage over the past several years.

I cannot speak here of the specific uses of the expiring authorities for reasons of classification. The Director of National Intelligence, the Director of the FBI, and the Director of the NSA described to Members last night how they have been used. Here is what they have told us:

> We have seen recent successful disruptions of terrorist plots directed against the United States. Our intelligence and law enforcement personnel were able to disrupt al Qaeda's Najibullah Zazi terrorist plot to attack the New York City subway system. These PATRIOT Act authorities, along with other critical intelligence tools, are essential to our ability to detect and disrupt such plots.

Let me talk about the three provisions, starting with the business records section that is expiring. This authority allows the government to go to the Foreign Intelligence Surveillance Act Court—a special court with judges appointed by the Chief Justice that deals only with these matters and meets 24/7. The provision allows the government to obtain business records if it gets a warrant from this court.

The second expiring provision, so-called roving wiretap authority, provides the government with needed flexibility in conducting electronic surveillance. We all know there are now throwaway cell phones. We have found that terrorists have attempted to evade surveillance by using these throwaway cell phones and rapidly switching cell phones. This tool allows for surveillance on a particular target, not the telephone. Again, you need to have that authority given to you, much as you would in a criminal wiretap by a court, but in this case by the Foreign Intelligence Surveillance Act Court. Again, the surveillance is for foreign intelligence.

According to FBI Director Bob Mueller, this provision has been used more than 190 times since it was authorized in 2001.

The third section—the final one—is the ''lone wolf'' authority that allows for court-ordered collection against non-U.S. persons who engage in international terrorism but for whom an association with a specific international terrorist group has not yet been determined.

This provision was enacted in light of the Zacarias Moussaoui case, in which the FBI suspected Moussaoui of engaging in terrorist activity and believed at the time it could not obtain a FISA order—in other words, a FISA warrant—for lack of definitive connection to a known foreign terrorist organization.

I see Senator KYL on the floor. He well knows this issue. So this is a specific addition that was put in because of the Moussaoui case to get at someone who is a ''lone wolf'' who has no known association with a terrorist operation.

These tools have been authorized for several years and have been subject to strict scrutiny by the Foreign Intelligence Surveillance Act Court, the Department of Justice, and the Congressional Intelligence and Judiciary Committees.

Members have raised concerns that provisions authorized by the PATRIOT Act have been misused. The Judiciary and the Intelligence Committees have held numerous hearings on this topic. I believe past problems have been addressed, and we will continue to monitor the use of these provisions carefully.

Members have also noted past problems with the use of national security letters, and that is what all the discussion so far that I have heard on the floor has been. As I have said, the national security sections are not at issue at this time. So it is, in a sense, a shibboleth to raise them here.

It is business records, it is lone wolf, and it is roving wiretaps. Those are the three sections that expire on the 28th of February.

So let me be clear: This legislation does not address national security letter authorities, as those provisions are not set to expire at the end of the month.

By extending these three provisions until May 27, the Congress can appropriately study and I hope enact long-term reauthorizations that the intelligence community and law enforcement need to continue to keep us safe.

Let me just say, I see—and cannot go into here—but day after day uses of these expiring authorities and have come to believe that being able to have good intelligence is what prevents an attack against a New York subway or air cargo plane. It is what keeps this homeland safe, and it is what allows us to get ahead of a terrorist attack. Without them—without them—we put our Nation in jeopardy. I, for one, took an oath of office to protect and defend, and I do not intend to be party to that. Everything I know indicates that there is jeopardy facing this Nation, and these intelligence provisions are necessary to protect our homeland.

I urge acceptance of the Reid-McConnell legislation.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to agree with the comments made by our colleague from California, the chairman of the Intelligence Committee, and urge all our colleagues, in the time that will exist between now and the time we are able to take up this matter again, to accept her invitation to be briefed and to appreciate some of the things that our intelligence community goes through in order to try to protect the American citizens.

The points she made are all valid from my service on the Intelligence Committee. I am aware of what she has been talking about. I would just like to repeat three things. I will not bother to go into all the detail because she made the points very well.

Roving wiretaps—the name does not sound very good—are simply the recognition that today you have a lot of throwaway cell phones. It used to be you had one telephone hanging up in the kitchen or someplace, so when the police got a warrant to tap your telephone, that was the only phone you had.

Now these guys take phones, use them once, throw them away, and then get another one or they have access to lots of different phones. It is simply a recognition that today people use lots of different phones rather than one, and, therefore, the warrant applies to any of the phones of a particular individual.

The ''lone wolf'' terrorist exception Senator FEINSTEIN explained very well. I wrote that provision. It applies to people who do not have a card in their wallet that says: I belong to al-Qaida or I belong to some other terrorist group.

We understood that in some cases there will be people such as Moussaoui who you are not sure are actually affiliated with any particular group, but they are still planning a terrorist activity and, therefore, you want the ability to check them out.

Third is the business records. This is the only one there has been any controversy about. It allows the government to get a court order to obtain business records that are either held or generated by third parties. You want to find out, for example, if Mohamed Atta stayed at the such and such motel the night before he went to the airport to conduct the terrorist attacks of 9/11. That will help to prove the chain of evidence to prosecute other people or for us to be able to know exactly how that attack occurred. So you go to the motel and say: Could we see who checked in last night. That is not a big deal.

For most agencies of the Federal Government, you do not even have to go to court to ask the question. But out of an abundance of caution, before the government can actually go to the motel and say: Can we see your record, they have to go to court to get approval to do that. So the PATRIOT Act actually sets a higher hurdle in trying to get these business records in terrorism investigations. In addition to that, there are only three top officials at the FBI who are authorized to request court orders for the information.

So the point is this: These are the only three provisions that are sunsetted and that we have to reauthorize. If people have objections to other parts of the act, such as has been expressed here, then their argument is not with the reauthorization of these three provisions but with the underlying law. In any event, I suppose they will have plenty of time to raise those questions when we debate this further in the next couple of months.

I urge my colleagues to support this short-term extension. In the meantime, prior to the rest of the debate we will have to check with the folks at the Intelligence Committee who can answer any questions colleagues may have about how this act is intended to operate and then check with the FBI and other law enforcement officials to see how it works in its operation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, I ask unanimous consent to speak for 3 minutes.

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

Mr. TESTER. Mr. President, Montanans sent me to the U.S. Senate to bring accountability to this body, to make responsible decisions, and to protect America and the freedoms we all enjoy. I took the oath of office to defend the Constitution.

That is why I am going to vote against the PATRIOT Act. I encourage others to follow suit. I have never liked the PATRIOT Act. I still don't.

Like REAL ID, the PATRIOT Act invades the privacy of law-abiding citizens. And it tramples on our Constitutional rights.

We need to find a balance—making our country more secure and giving our troops, law enforcement and intelligence agents the tools necessary to get the job done. But we have to do it without invading the privacy of law-abiding Americans.

This extension doesn't address any of those concerns. It simply puts off the debate we need to have for another day.

There are some really troubling aspects that are not addressed by the extension of this law: Roving wiretaps which allow surveillance of a ''type of person,'' instead of a particular person, over multiple phone lines. That is a slippery slope to eroding our constitutional protection against government searches; Using the reasonable grounds of suspicion standard to require libraries and businesses to report to the government about what American citizens buy or borrow.

We don't have to sacrifice our privacy and lose control of our personal information in order to be secure. And we should never give up our constitutional rights.

Voting for the PATRIOT Act is the wrong way to go. We have got a lot of smart people in this body. We can develop the policies we need to fight terrorists without compromising our constitutional civil liberties. I ask my colleagues to join me in voting against extending this law today and in the future.

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

The PRESIDING OFFICER (Mr. BENNET). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. 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. LEVIN. Mr. President, I think all time has either been yielded back or all time is up, so I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The result was announced—yeas 86, nays 12, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS — 86

Akaka	Enzi	Menendez
Alexander	Feinstein	Mikulski
Ayotte	Franken	Moran
Barrasso	Gillibrand	Murkowski
Bennet	Graham	Nelson (NE)
Bingaman	Grassley	Nelson (FL)
Blumenthal	Hagan	Portman
Blunt	Hatch	Reed
Boozman	Hoeven	Reid
Boxer	Hutchison	Risch
Brown (MA)	Inhofe	Roberts
Burr	Inouye	Rockefeller
Cantwell	Isakson	Rubio
Cardin	Johanns	Schumer
Carper	Johnson (SD)	Sessions
Casey	Johnson (WI)	Shaheen
Chambliss	Kirk	Shelby
Coats	Klobuchar	Snowe
Coburn	Kohl	Stabenow
Cochran	Kyl	Thune
Collins	Landrieu	Toomey
Conrad	Leahy	Udall (CO)
Coons	Levin	Vitter
Corker	Lieberman	Warner
Cornyn	Lugar	Webb
Crapo	Manchin	Whitehouse
DeMint	McCain	Wicker
Durbin	McCaskill	Wyden
Ensign	McConnell	

NAYS—12

Baucus	Brown (OH)	Lautenberg
Begich	Harkin	Lee
Merkley	Paul	Tester
Murray	Sanders	Udall (NM)

NOT VOTING—2

Kerry	Pryor

The bill (H.R. 514), as amended, was passed.

VOTE EXPLANATION

● Mr. KERRY. Mr. President, I am necessarily absent for the vote today on legislation to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004, H.R. 514. If I were able to attend these vote sessions, I would have supported the bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004, H.R. 514.●

The PRESIDING OFFICER. The Senator from Illinois.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

AMENDMENTS NOS. 49 AND 51, AS MODIFIED

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent that my pending amendments, Nos. 49 and 51, be modified with the changes that I have at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments are so modified.

The amendments, as modified, are as follows:

AMENDMENT NO. 49, AS MODIFIED

On page 48, between lines 22 and 23, insert the following:

(c) ADDITIONAL RELEASE FROM RESTRICTIONS.—

(1) IN GENERAL.—In addition to any release granted under subsection (a), the Secretary of Transportation may, subject to paragraph (2), grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance numbered 30–82–0048 and dated August 4, 1982, under which the United States conveyed certain land to Doña Ana County, New Mexico, for airport purposes.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) shall be subject to the following conditions:

(A) The County shall agree that in conveying any interest in the land that the United States conveyed to the County by the deed described in paragraph (1), the County shall receive an amount for the interest that is equal to the fair market value.

(B) Any amount received by the County for the conveyance shall be used by the County for the development, improvement, operation, or maintenance of the airport.