United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 115th CONGRESS, SECOND SESSION

Vol. 164 WASHINGTON, TUESDAY, JANUARY 16, 2018 *No. 9*

Senate

The Senate met at 4:30 p.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER

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

Let us pray.

Eternal God, the fountain of wisdom, as our lawmakers do the work of freedom, give them the assurance of Your provisions and prevailing presence. Remind them of Your promise to never leave or forsake Your people. Nourish our Senators this day with spiritual truths and moral qualities that will make our Nation strong and good.

Lord, surround our legislators and their loved ones with the shield of Your Divine favor, being for them a shade by day and a defense by night.

And, Lord, in this land we love, draw together the diverse men and women from every race, creed, and culture, forging us into a united force for good. Empower us to accomplish Your purposes on Earth, as we remember that words matter and that out of the abundance of the heart, the mouth speaks.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

FUNDING THE GOVERNMENT

Mr. MCCONNELL. Mr. President, as we all know, Congress has until Friday to reach an agreement that ensures continuous funding for the Federal Government. There is too much at stake for Republicans and Democrats not to come together, particularly while serious bipartisan conversations are underway on shared priorities, such as rebuilding our military, fixing our broken immigration policy, and other issues.

Now that a Federal judge has issued a nationwide injunction preventing the administration from winding down the Obama administration's DACA Program, it is clear that Congress has at least until March, at a minimum and possibly even longer, to reach a compromise that resolves the DACA question but also strengthens our security and makes other needed reforms to our broken immigration system. With no imminent deadline on immigration and with bipartisan talks well underway, there is no reason why Congress should hold government funding hostage over the issue of illegal immigration.

I am confident that Senators on both sides of the aisle will choose to avoid a manufactured crisis, reach a bipartisan funding agreement in the coming days, and then continue our negotiations in these important areas.

FISA

Mr. MCCONNELL. Now, on another matter, later this afternoon the Senate will vote to advance reauthorization of title VII of the Foreign Intelligence Surveillance Act. This includes section 702, one of the most important tools that our warfighters and intelligence professionals use to wage the war on terror and to keep Americans safe.

It allows the United States to collect communications from foreign terrorists who wish harm on America and our allies. To be clear, it does not permit the targeting of American citizens anywhere in the world. Let me repeat that. Section 702 does not allow the targeting of American citizens, nor does it permit the targeting of anyone of any nationality who is known to be located here in the United States. With respect to foreigners on foreign soil, 702 gives the men and women who keep us safe the vital tools they need to fulfill their missions.

Five years ago, Congress reauthorized the title with overwhelming bipartisan support. It is imperative that we do so once again. The world remains dangerous. Al-Qaida, ISIL, and associated terror groups are still intent on harming our people and those working with us overseas.

Yet with each day that passes since the Nation was attacked on September 11, 2001, it seems that concern over terrorism has waned. This is in part due to the success of our defense and intelligence community in preventing another major attack. They rely upon section 702 to accomplish that mission.

I look forward to renewing the bipartisan consensus on this issue and reauthorizing this important provision as the Senate votes later this week.

TAX REFORM

Mr. MCCONNELL. Now, on a final matter, in the wake of last month's historic tax reform legislation, the news is filled with stories of economic optimism and increasing prosperity for workers and middle-class families.

In fact, I am proud to announce that earlier today I spoke with the leadership of Humana, which employs more than 12,000 people in my home State of Kentucky. Yesterday they notified their staff that they will be accelerating pay incentives for associates and raising the minimum hourly wages for both part-time and full-time employees—all thanks to tax reform. For these Kentucky workers, the Tax Cuts and Jobs Act will mean more money in their paychecks.

Just last week, the international automaker Fiat Chrysler announced that it will invest 1 billion new dollars

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

in the Warren Truck Assembly Plant just outside of Detroit. The production line for Ram heavy-duty trucks is leaving Mexico and coming back to America. This will create 2,500 new jobs and inject relief right into the local economy. According to officials who announced the change, all this is only happening because tax reform is remaking the business climate in our country.

Besides the revival in manufacturing, Fiat Chrysler announced a new wave of $2,000 bonuses for 60,000 hourly and salaried employees. They will join a growing list of more than 150 companies that have announced plans to distribute significant bonuses, permanent pay raises, more generous retirement contributions, or other benefits to their employees, all thanks to tax reform.

Prior to tax reform, companies that wanted to manufacture goods in America and hire American employees faced the highest statutory corporate tax rate in the developed world. American workers were ready to clock in, but our outdated burdensome Tax Code told potential investors to move along and find somewhere else to set up shop. Those days are over, thanks to the President and Republican majorities in the House and Senate that voted to modernize our Tax Code.

Now we are the ones with a competitive advantage. The Wall Street Journal's editorial board believes that our tax reform will benefit investment in the United States ''at the expense of high-tax countries such as Germany.'' The Journal also reports that China ''fears the tax changes could make the U.S. a more attractive place to do business.'' That is China. It is becoming clear that these fears are entirely justified, and it is good news for families and workers in Kentucky and all across America.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RAPID DNA ACT OF 2017

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the House message to accompany S. 139, which the clerk will report.

The senior assistant legislative clerk read as follows:

House message to accompany S. 139, a bill to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes.

Pending:

McConnell motion to concur in the amendment of the House to the bill.

McConnell motion to concur in the amendment of the House to the bill, with McConnell amendment No. 1870 (to the House amendment to the bill), to change the enactment date.

McConnell amendment No. 1871 (to amendment No. 1870), of a perfecting nature.

McConnell motion to refer the message of the House on the bill to the Committee on the Judiciary, with instructions, McConnell amendment No. 1872, to change the enactment date.

McConnell amendment No. 1873 (to (the instructions) amendment No. 1872), of a perfecting nature.

McConnell amendment No. 1874 (to amendment No. 1873), of a perfecting nature.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

NET NEUTRALITY

Mr. SCHUMER. Mr. President, first, on the topic of net neutrality, since the administration's FCC voted to end net neutrality in December, Democrats have been working hard to round up enough Senators to overrule the FCC's decision, which places control of the internet in the hands of the biggest corporations.

Today we reached a milestone: 50 Senators will support Senator MARKEY's resolution of disapproval. All 49 Democrats have signed on to cosponsor, and my friend from Maine, Senator COLLINS, has also said she will support it.

With our full caucus supporting the measure, it is clear that Democrats want to keep the internet from becoming a Wild West where ISPs are free to offer premium service to the wealthiest customers while average consumers are left with far inferior options.

When we force a vote on this bill, Republicans in Congress will, for the first time, have the opportunity to right the administration's wrong and show the American people whose side they are on. Are they on the side of big internet service providers and corporations, or are they on the side of consumers, entrepreneurs, startups, and small business owners?

I applaud Senator COLLINS for supporting this effort and hope sincerely that more of her colleagues will do the same. Given how quickly this measure has earned the support of 50 Senators, I believe we have a real chance of success in restoring net neutrality and keeping the internet open and free for all Americans.

Mr. President, another pressing issue before us this week is FISA and the 702 program. The majority leader is pressing forward on a 6-year bill to reauthorize the 702 FISA Court program. This is a significant bill, but right now the majority leader is pushing for its passage without debate or amendments. That is the wrong approach.

Many of my colleagues would like to offer amendments on this legislation and, frankly, they deserve that right. Personally, I believe that while the bill makes some improvements to the 702 FISA program, it should go somewhat further. We could do a better job balancing the crucial national security imperatives of the program with legitimate concerns about privacy and protecting the rights of American citizens.

Clearly, the bill on the calendar is better than the status quo, and it is certainly better than no bill at all, but that is not the choice before us. The majority leader can open up the bill for limited debate and a few amendments, not to delay but so we can have some amendments and try to improve it.

For that reason, I will be voting no on the upcoming cloture motion. If cloture is not invoked, we can move quickly to an amendment process where Senators from both parties could offer ideas to improve the bill. That is what we ought to do, especially on a bill on the most sensitive area of the government, where security and liberty meet, and that will stand for 6 years. That is too quick for too much. We ought to have some amendments and some discussion.

DACA

Mr. President, the fate of the Dreamers has been the subject of months of intense bipartisan, bicameral negotiations. Last week, a bipartisan group of Senators went to the White House with an agreement that represents the best path forward. Senators GRAHAM and DURBIN, alongside Senators GARDNER, MENENDEZ, FLAKE, and BENNET, worked out a compromise that fits squarely inside the four corners President Trump outlined as the parameters of a deal in a televised meeting last Tuesday. In exchange for passing DACA protections, the Gang of 6 deal includes President Trump's full budget request for border security, including funding to build barriers along the southern border. It deals with family reunification within the scope of the negotiations—foreclosing the possibility of Dreamers sponsoring their parents for citizenship. The deal would also curb the diversity lobbying system—another item President Trump requested. The full details of the proposal will be announced tomorrow, but those are the broad strokes, as I understand them.

The concessions in the bill are tough pills to swallow for Democrats. It is not the bill we would have written if we were in charge, but that is not the situation we find ourselves in. To make this body work—to avoid a shutdown—we must compromise. So Democrats tried, in good faith, to meet the President and our Republican colleagues halfway—to find a deal that neither

side loved but both sides could live with, and that is what a bipartisan group of Senators achieved.

The deal they produced is right down the middle. It addresses the precise issues the President identified as part of a deal. Yet, at the pivotal White House meeting last Thursday, President Trump turned his back on this bipartisan solution and proceeded to use foul and vulgar language to demean African and Caribbean countries.

His well-reported comments were certainly unbefitting the Presidency of the United States. They were beneath the dignity of his office. They went against the very idea of America—which holds up as an unassailable truth that all men are created equal, no matter their station or country of origin, but just as distressing, President Trump's comments reveal an intransigence about coming to a deal for the Dreamers. It seems the President has only two ways of negotiating: Either he commits to a deal one day and then betrays his word the next—which is what happened last year after Leader PELOSI and I met President Trump on DACA—or he even dismisses the possibility of compromise and says a bipartisan deal is that he gets everything he wants.

Hundreds of thousands of lives hang in the balance. Funding for our men and women in uniform hangs in the balance. President Trump needs to step up. He can't just bluster. He can't just play a game of brinksmanship. He can't just be obstinate and say: My way or the highway. He needs to be willing to take yes for an answer.

A very fair bipartisan deal remains on the table. It is the only game in town, and we are making steady progress on building additional support in both Houses of Congress. If it were put on the floor of the House or Senate, I predict it would get a majority vote in either one. There is a deal to be had this week. The only person blocking it is President Trump.

So I have a challenge for President Trump. Everyone is talking about how bigoted your comments were last week. Well, actions speak louder than words. If you want to begin the long road back to prove you are not prejudiced or bigoted, support the bipartisan compromise that three Democrats and three Republicans have put before you—one that was aimed at meeting the concerns you voiced. Give the Dreamers safety here in America and bolster border security at the same time. This may be the last train leaving the station. President Trump needs to get on board.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I find myself in strong agreement with the comments of the senior Senator from New York State.

He talked about 702. Let me refer to that a bit. Section 702 is in S. 139, the FISA Amendments Reauthorization Act of 2017. We are going to vote very soon on whether to cut off debate and block any amendments on a fundamentally flawed piece of legislation that fails to reform one of our most important surveillance tools.

Section 702 of the FISA Amendments Act was intended to provide for vast and powerful surveillance of foreigners overseas who might do harm to us, and it does, but the fact that it is an effective surveillance tool used against foreigners abroad is not the concern you will hear about today.

Today, you are going to hear concern that Section 702 has also become an unexpected and powerful domestic surveillance tool—not one directed at those abroad who might do us harm, but potentially directed at every single American in this room and throughout this country, allowing the government to search for Americans' emails and other substantive communications without a warrant—the so-called backdoor loophole.

If we put through here legislation saying- this legislation will allow our government to search all our emails without a warrant, Republicans and Democrats will be jumping up saying: Wait a minute. That violates the Fourth Amendment.

Well, the legislation we are voting on today—authored by the Chairman of the House Intelligence Committee, DEVIN NUNES—contains what his supporters portray as a fig leaf of reform, but, in fact, the legislation makes a bad problem even worse.

I will oppose cutting off debate on this bill, and I strongly urge my fellow Senators to do the same—not to kill the bill but to afford us, on such a critical surveillance tool, the opportunity to debate the constitutional implications and offer amendments to improve the bill and to protect Americans in every single State in this country. The Majority Leader has provided no such opportunity. He doesn't want us to offer any amendments—even amendments we know could pass with a bipartisan majority.

Senator LEE and I are filing several amendments to improve this bill, including our USA Liberty Act. That is a Senate companion to a bill that was reported out of the House Judiciary Committee in a strong and very bipartisan vote. Our amendment offers a sensible compromise. It would protect national security—something we all want to do—but it also protects American civil liberties, which I would hope we also want to do.

I strongly support a warrant requirement based on Senator FEINSTEIN's amendment in the Senate Intelligence Committee that would close the backdoor loophole. These amendments, and others offered by Senators PAUL and WYDEN and others, deserve a vote. And that is what I am asking for today. Senator LEE and Senator PAUL have spoken so strongly on the problems in this. They ought to be heard. They ought to have a chance to offer amendments.

Instead, the only bill we are voting on today is the House bill, which fails to comply with the fundamental constitutional imperative. I think we can do better in the Senate than to accept a flawed House bill. Do not be deceived by the sham warrant contained in the Nunes bill. Again, that is why we should have a Senate bill that speaks to those things we know as Senators and not the flawed warrant in the Nunes bill.

Its exemptions are so large as to render it meaningless. The bill would require a warrant only during the final stage of a criminal investigation and only when the government believes national security or risk to life or bodily harm are not implicated at some undefined point in time. In all other cases, and at previous points in an investigation, the government can search for an American's information in the Section 702 database just as frequently and casually as we might look up football scores on Google.

Yet, even if it is completely ineffectual, the Nunes bill has a warrant requirement. That means the sponsors of this flawed legislation acknowledge that some sort of warrant is required to protect Americans' privacy. They recognize that a search through a vast database of Americans' communications can trigger Fourth Amendment protections, at least when it is convenient to the government.

The problem is, the Constitution doesn't say: We protect Americans' rights only if it is convenient to the government. The reason they wrote the Constitution is to make sure every one of us has protections against the government.

When a Fourth Amendment interest is implicated, the government can easily obtain a warrant. They are going to come search your home. They are going to come search your files. They are going to come and search your papers. They should have to have a warrant. The Fourth Amendment either applies or it does not. If it does not, then let's have a constitutional amendment and do away with it. Nobody here would vote for that.

Even the sponsors of the Nunes bill now agree the Fourth Amendment applies. The only question is whether we have a real warrant requirement or a warrant in name only. Simply calling something a warrant doesn't make it that.

I firmly believe a real warrant requirement doesn't have to put our national security at risk. The reform proposals I support contain well-tried exemptions for exigent circumstances to allow for emergencies. For these reasons and others, I strongly support a warrant requirement to close the backdoor loophole. I think my fellow Senators, Republicans and Democrats, ought to be allowed to at least have a vote on it. If they don't, I would urge my colleagues of the Senate to vote no on invoking cloture on the FISA Amendments Reauthorization Act.

Section 702 authorities can be temporarily extended as they were in December. In fact, the FISA Court's statutorily authorized certifications that permit 702 surveillance don't expire until the end of April. There is no emergency now. We still have the time and the ability to get this right.

Let's protect the Constitution. Let's protect Americans. The Majority Leader should do his part and allow members of both sides of the aisle who care deeply about this issue to offer amendments before any long-term authorization. I agree Section 702 is an important tool, but this issue is too important to rush through without adequate debate. I firmly believe we can both protect our national security and the civil liberties of law-abiding Americans. This bill clearly falls short, and I will be voting no.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I want to thank Chairman LEAHY for his excellent remarks.

Let me simply say, to move forward without amendments surrenders the constitutional obligations Senators have to the American people. This issue is important, it is complicated, and the American people deserve to have an opportunity for some real amendments to make sure that, at the end of the day, we have policies that keep our people safe and protect our liberties.

I see my friend from Kentucky. He is joined by his colleague from Utah Senator LEE, Senator LEAHY, and me.

Our bipartisan coalition is dedicated to essentially one mission: We think the country deserves a Senate that is very tough on terrorists. We don't take a backseat to anybody in terms of fighting terrorists. What we are opposed to is an end run on our sacred Constitution.

Right now, with the changes in communication systems around the world and communication systems increasingly becoming globally interconnected, we have more and more law-abiding Americans swept up in searches under the Foreign Intelligence Surveillance Act. We want to fight terrorists, but the law allows the government to target foreigners to acquire foreign intelligence information, which basically means anything related to the conduct of foreign affairs.

So let's talk about who could get swept up in these searches and who the people are whom Senator PAUL, Senator LEE, Senator LEAHY, myself, and colleagues on both sides of the aisle sought to protect as law-abiding Americans—we think they ought to have their constitutional rights. The kinds of people who could be swept up in these communications and have their emails or texts or their data searched without a warrant—it could be American businesspeople talking to foreign contacts. It could be first-, second-, or third-generation American immigrants talking to family and friends who are still overseas; American journalists covering foreign stories; U.S. servicemembers talking to foreign friends they made while they were deployed; American teachers and researchers seeking information from foreigners.

How many Americans get swept up? We don't know. And we don't know—not because of a lack of effort. We have been trying for 6 years to get the government to provide even an estimate. On a number of these issues, my concern is to ensure that we have both safety and liberty, but we have actually gone backward.

In an open hearing of the Intelligence Committee, when the Director of National Intelligence, Dan Coats—our former colleague—was asked about whether the government could collect, in effect, wholly domestic, personal data here in the United States, we couldn't even get a straight answer with respect to whether the government, under the Foreign Intelligence Surveillance Act, could collect wholly domestic communications. We couldn't even get a straight answer to that.

What we need is the opportunity to have a real debate. We have a number of amendments that go right to the heart of what these issues are all about, particularly the government conducting repeated, warrantless searches of Americans, even if those Americans aren't the subject of any investigation, and the government then can read those private communications.

Finally, I want to put this whole issue in context. Every year, the CIA and the NSA conduct thousands of warrantless searches of 702 data on Americans, and that is just for content. They conduct tens of thousands of warrantless searches for communication records. The FBI is conducting these searches so frequently that they don't even count. But this bill might have some marginal effect on only one of those searches. So the House bill is not just fake reform; it is a setback.

The last point I would make is that we finally made some headway with respect to collection of communications that are neither to nor from a foreign target but are simply about a foreign target. I went after this issue for years, this question of abuse of what is called ''abouts'' collection. Finally, the government realized it was going too far, and they put limits on it. Now it looks as though they want to get back in the business, and the other body—the House—basically creates a path to going back to ''abouts'' collection, which even the government has admitted has been abused.

There is an opportunity, if we vote, to allow some amendments, to come up with policies that will allow Americans to look at the Senate and say: We didn't go backward. We went forward. We protected law-abiding Americans, but we made it clear that we were going to be relentless in our search for terrorists.

I know I have a little bit more time, but I see my colleague and partner Senator PAUL on the floor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Mr. President, I rise in opposition to the government listening to your phone calls, reading your emails, or reading your text messages without a warrant. It doesn't mean the government will never do this, but it means they would have to ask a judge. They would have to ask a judge if they have probable cause that you committed a crime. They would have to name you. They would have to name the information they want. It is called the Fourth Amendment. All Americans deserve the protection of the Fourth Amendment.

In fact, I believe it was John Adams who said that James Otis's argument against blanket warrants, against generalized warrants that they called writs of assistance—he said that the argument James Otis made in the 1760s was the spark that led to the American Revolution.

Lincoln is said to have written that any man can stand adversity, but if you want to challenge a man or a woman, give them power.

Over almost 1,000 years, the history of Western civilization has been the struggle to contain the power of the monarch, the struggle to contain and maintain the power of the government in every form. From Magna Carta on, it has been the people trying to take power back from either the monarchy or a despotic government. We get to the formation of our government, and Jefferson wrote that the Constitution would be the change, that the government would be bound up in the change.

Patrick Henry wrote that the Constitution is meant to restrain the government, not the people. It is about trying to restrain government from abusing the power to take our rights. You have a fundamental right to be left alone. Justice Brandeis put it this way. He said that the right most cherished among civilized men and women is the right to be left alone.

But we know also that the history of those who grab the reins of power, the history of those who take up the mantle of power is a history of abuse.

In World War I, President Wilson arrested 10,000 Americans because of their objection to the war.

FDR had an enemies' list that he actually was very vocal about and published in newspapers. There were 77 people who were his enemies, and he used the IRS to go after them.

LBJ illegally spied on Martin Luther King. We just had Martin Luther King Day yesterday. LBJ spied on him illegally in all manners and in all forms. They spied on Vietnam war veterans.

Nixon had an enemies' list.

You name it—President after President has abused this power.

President Obama had a fight with the tea party groups. It turns out that if

you registered as a tea party group, you were given extra scrutiny. And people were denied being allowed to form as a charitable group or political activist group under President Obama because they disagreed with President Obama.

We now have a current administration where there have been accusations of people in the FBI having a personal animus against this President and conspiring and discussing how they could block him. We have had members of the Department of Justice who were married to people doing opposition research on President Trump, paid for by the opposition candidate, by Hillary Clinton.

Without question, that power has been abused and will always be abused. It was Lord Acton who said that ''power tends to corrupt, and absolute power corrupts absolutely.'' The history of our country is about trying to restrain the power of government.

Realize that we have the ability to collect all of the phone calls in Italy in 1 month. There was a story saying that we did it, that we collected every phone call from Italy. Who gets trapped in that? If you collect everyone's phone call in Germany or everyone's phone call in Jordan, who gets caught in that? Many, many innocent, legitimate Americans get caught up in the other end of phone calls because it is not just the phone calls of terrorists, it is everybody's phone calls. They are all being vacuumed up, and innocent Americans are caught up in that.

Senator WYDEN has been a leader in asking tough questions on the Intelligence Committee. Are there communications that are purely between two people in America that somehow get caught up in this database? He has been given a variety of answers on this, but we suspect that Americans talking to Americans in this country are caught up in this database. Should the government be allowed to search this database to prosecute you for not paying your taxes or for a minor marijuana violation? Absolutely not. Why? Because this information is gathered without a warrant. It is gathered without any constitutional protection.

As others have said, we actually are OK with a lower standard for gathering foreign intelligence. We acknowledge that the Constitution doesn't apply to everybody in the world. But if Americans get caught up in that, Americans deserve the protection of the Constitution.

Some on the other side have started saying: Well, it is lawfully gathered, so it could be used for any lawful purpose. That is the most ridiculous argument I have ever heard. It is gathered lawfully for foreigners, and we made the standard zero. There is no constitutional protection. We never said that we are going to gather foreigners' information, put it in a big pool, mix it up with Americans' information, and then type your name in—John Smith—and then find out whom you have been talking to.

Realize that they could listen to your conversation, then they could bring you in for an interview with the FBI, and if you say anything in the interview that contradicts what they eavesdropped on in your conversation, you have now committed a felony. Do you really want all of your phone calls recorded and then the government to have the ability to bring you in and ask you questions about your phone calls? And if you are not perfectly accurate in recalling your phone calls, you could go to prison.

All we are asking is that, for Americans, the Constitution should be in order. We should not get rid of the Constitution. We shouldn't throw it out. The Constitution should protect us all.

We take an oath of office to defend the Constitution. Our soldiers take the same oath of office. Wouldn't it be sad if our soldiers came home from fighting and defending the Constitution to learn that we gave up on it while they were gone?

The sad state of affairs here is that the majority doesn't want any debate. They want to ram this through with no amendments. Senator WYDEN and I have worked for months on amendments and on an alternative bill which actually reauthorizes the program. Senators LEAHY and LEE have another bill that is similar that replaces the program. None of us are for ending the program. All we are saying is that if you want to look at an American's information, you have to get a warrant.

People say it will slow us down. All of our bills have an emergency exception. If they declare an emergency, they can look at the information and get the warrant the next day. We hope that would be extraordinary and not the norm.

The thing is, we want the program to work, but we don't want Americans caught up in it. I hope Senators will think this through. This will not kill the program.

They are going to scare you to death and say: Tomorrow, we are all going to die. The world is going to be taken over by terrorists if we don't have this.

If we win this vote tonight, they will be negotiating within an hour and will come to a compromise that allows the Constitution to protect Americans. That was our oath of office. That is what we should do.

I urge a vote against the bill in its current fashion.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I stand today in support of S. 139, the FISA Amendments Reauthorization Act.

As we know, the first responsibility of the U.S. Government is to protect our citizens. To do so, we must make sure that those who protect us have the tools to keep us safe. This bill does exactly that. It provides the intelligence community and law enforcement with the right tools, but it also minds the civil liberties and the privacy protections that our Constitution requires, especially given the ever-changing technological landscape.

The importance of our country's safety and security has been highlighted in several events from just the past 2 years. We often get lost in the constant news cycle, but let's not forget that New York City suffered three significant terrorist attacks in the last 15 months alone.

In September 2016, a terrorist detonated a pressure-cooker bomb in New York's Chelsea neighborhood. A second pressure-cooker bomb was found a few blocks away but didn't detonate. Earlier that day, a bomb went off near the start of a Marine Corps charity race.

This past October, Sayfullo Saipov drove a rented truck onto the bike lane and pedestrian walkway on the West Side Highway. He mowed down numerous civilians, killing eight and injuring 12 others.

And this past December, Akayed Ullah detonated a bomb in New York City's subway tunnel to the Port Authority Bus Terminal, injuring several people near him. He told investigators that he did it in the name of ISIS.

In June 2016, Omar Mateen shot and killed 49 and injured 53 others in Orlando, also an act in the name of ISIS.

In September 2016, a terrorist stabbed 10 people at a mall in St. Cloud, MN.

In November 2016, a terrorist injured 13 after driving into and trying to stab students and teachers at Ohio State.

And in December 2015, we had the San Bernardino shooting, where terrorists killed 14 and injured 22.

We have also seen terrorist incidents evolving around the world, especially impacting our friends in Europe.

In the United Kingdom alone, there have been at least a half dozen terrorist attacks in the past year, including a subway bombing in London, injuring 30 people; a van plowing down pedestrians on London Bridge, injuring 48 and killing 8 people; the Manchester concert bombing, in which 22 people were killed; and the attack on the British Parliament in London, killing 4, including a person from Utah.

All of these attacks and more show that the threats are real, and we must protect our country by lawful constitutional means. Congress has done so by providing lawful authority such as section 702. The section 702 program has been called ''the most significant tool'' in the NSA arsenal for the detection and disruption of terrorist threats. The NSA Director has said publicly that ''there is no alternative way'' to replicate section 702 collection. Some estimate that over 25 percent of all current U.S. intelligence is based upon section 702 collection.

There are some key examples. Hajji Iman rose from a high school teacher to become the second in command of ISIS. He was a main focus of NSA's counterterrorism efforts. The U.S. Government offered a $7 million reward for information leading to his capture. We spent over 2 years looking for him. He

was ultimately captured based almost exclusively on intelligence information from section 702.

Najibullah Zazi is in prison for planning an attack of the New York City subway system with explosives in 2009. He received explosive training in Pakistan from al-Qaida. He was discovered after he corresponded with an email address used by an al-Qaida courier in Pakistan, seeking advice on how to build explosives. The section 702 program uncovered the correspondence. Without that discovery, the subway bombing plot might have succeeded.

In October 2013, the FBI began investigating Shawn Parson, a foreigner from Trinidad and Tobago, after Parson began posting comments online expressing a desire to commit an attack against Western interests. Information collected through section 702 revealed Parson's efforts and was instrumental in identifying additional members of Parson's network.

Through the section 702 program, the FBI assisted foreign partners to identify the individual who committed the 2016 New Year's Eve terrorist attack at a night club in Turkey. During that attack, 38 people were killed or seriously injured, including an American citizen.

Those are just the unclassified examples.

It is important to remind my colleagues of the purpose behind section 702. It provides the government the authority to collect the electronic communications of foreigners located outside of the United States. Under section 702, it is against the law to target anyone in the United States or any American citizen, wherever that citizen is in the world.

The program is targeted. It is not a bulk collection system. Furthermore, the FISA Court must approve targeting procedures to ensure that only appropriate individuals are subject to surveillance. Minimization procedures limit the handling and use of information that is collected. All three branches of government have a hand in overseeing the program to protect the constitutional rights of the American people.

It is also important to remind my colleagues that this legislation was first signed into law in 2008. When we took up consideration in 2012 and debated the law, we authorized this legislation with no changes. The 2012 clean reauthorization had the full support of President Obama.

Some of our Senate colleagues oppose this bill. Their first, and most consistent, claim is that section 702 violates the Fourth Amendment. Our colleagues claim that it is an ''end-run'' around the Constitution. Others call it a ''legal loophole,'' a ''backdoor,'' or ''warrantless surveillance.''

Nothing could be further from the truth. Section 702 is fully consistent with the Constitution. Every Federal court to review section 702—even including the very liberal Ninth Circuit—has upheld the law. The Supreme Court's recent decision to deny review of the Ninth Circuit case lets stand that court's decision. These courts consistently determined that a warrant is not required to collect or query section 702 information.

Moreover, the independent PCLOB review board has reviewed the entire legal framework of section 702 and has also found it to be constitutional.

The other main claim against this bill is that it provides ''new'' powers to the government. Again, this is not true.

Nevertheless, this bill does include some significant reforms. First, the bill requires the FBI to get a warrant in some criminal cases. In other words, we have added a warrant where courts have held that none are necessary. The bill also provides protection for whistleblowers and requires an inspector general's report.

In short, this bill provides our government the tools it needs to protect our national security while providing some much needed transparency measures and increased privacy and civil liberties protections.

My colleagues can tell that I am very strongly in support of this legislation. I urge my colleagues to vote in favor of this very important national security protection legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I thank the chairman of the Judiciary Committee for his support and for his very indepth analysis of how this works and why it is constitutional.

I ask unanimous consent that Senator WARNER and I be permitted to conclude our remarks prior to the cloture vote.

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

Mr. BURR. Mr. President, I yield to the vice chairman of the Intelligence Committee.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my friend, the chairman of our committee, the Senator from North Carolina, for his work on this important piece of legislation.

I obviously rise today in support of passage of S. 139, the FISA Amendments Reauthorization Act of 2017. This bill would provide significant reforms that enhance the civil liberties and privacy protections of individuals, while preserving an authority critical to our national security for an additional 6 years.

As vice chairman of the Senate Select Committee on Intelligence, I have long advocated for reforms to surveillance authorities that balance the imperatives of national security and counterterrorism with the privacy rights and civil liberties of Americans.

Section 702 stands among the most important of our intelligence programs. To illustrate, I wish to highlight very briefly one recently declassified success story involving a terrorist by the name of Hajji Iman.

Hajji Iman was the second in command of ISIS based in Syria. NSA spent more than 2 years looking for him. This search was ultimately successful, primarily because of FISA section 702.

NSA used collection permitted and authorized under section 702 to collect intelligence on the close associates and the network supporting Mr. Iman, including their location in Syria. Between section 702 and other intelligence that was developed, the IC was able to track down the movements of Mr. Iman and ultimately resulted in taking him off the battlefield.

This is but one of numerous examples in which information obtained pursuant to section 702 has proven critical to addressing threats to Americans both domestically and abroad.

For much of the past year and a half, I have worked closely with Chairman BURR and a bipartisan group of Senators to pass legislation to reauthorize section 702 for an extended period while incorporating substantive reforms. In October our Senate Intelligence Committee passed, in a bipartisan way, with a vote of 12 to 3, comprehensive reauthorization legislation.

Since that time, we have worked with our counterparts in the House, as well as representatives of the executive branch, to ensure that the final bill that we will be voting on tonight and tomorrow garners widespread bipartisan support and includes enhancements to civil liberties and privacy protections.

The bill before us here today is the product of extensive bipartisan, bicameral negotiations. Now, this bill is not perfect. Rarely have I worked on or voted on a bill anywhere that is perfect, but I believe this measure represents a significant compromise and preserves the operational flexibility of section 702, while instituting key reforms to further protect U.S. personal privacy.

Let me take a moment to identify a few key items in this legislation that I believe bear mentioning.

First—and I have seen my friend from Oregon, who has argued long and hard in committee for a provision like this, and he would like to see it broader, but it does include a warrant requirement—for the first time in section 702, the government would be required to obtain a court order before FBI criminal investigators are permitted to view communications collected pursuant to section 702 concerning a known U.S. person. Such a court order, based on probable cause, would apply in the context of criminal investigations opened by the FBI that do not relate to national security.

This bill also mandates that a study be conducted by the inspector general of the Department of Justice of the FBI's querying practices 1 year following the enactment of this legislation, making sure that such practices

have been approved by the FISA Court and implemented appropriately by the executive branch. This is an important provision in ensuring transparency.

It includes an assessment of the interpretations of the FBI and the DOJ of querying procedures. It includes the handling by the FBI of individuals whose citizen status is unknown at the time the query is conducted, and it includes the scope of access by the FBI's Criminal Division to section 702 information.

While this will not answer all of the questions asked by my good friend from Oregon, it will finally put the FBI on record answering questions that I deserve to know and that I believe he and other Members deserve to know.

In addition, in terms of querying procedures, S. 139 includes a section mandating a new series of procedures to be drafted and approved by the court and implemented by executive branch agencies.

The legislation also requires new public reporting of statistics about activities conducted under FISA.

As has been mentioned by the chairman of the Judiciary Committee, S. 139, for the first time, extends whistleblower protections to contractors in the intelligence community. This addition is essential to ensure that those in the IC have an avenue to report abuses.

Congress must not further delay consideration of a long-term reauthorization. We have been debating this issue for the past 18 months. Indeed, Congress has known about this deadline since the prior reauthorization occurred in 2012. Numerous committees have had extensive hearings on this important issue, including in our committee, both open and closed hearings.

I believe this bill will strengthen and protect Americans. I urge my colleagues to vote in favor of this legislation. I thank the Presiding Officer, and I again want to thank my friend, the chairman of this committee, the Senator from North Carolina, and look forward to his comments.

I yield the floor and yield back to the chairman.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I thank the vice chairman of the committee, and I say to those who are opposed to this, I have great affection for all of you. They have passion which really displays their belief that the American people need to be protected from government.

Let me just say from the start, this is the single most reviewed program that exists in the Federal Government. This is reviewed congressionally—it is reviewed by the courts, it is reviewed by the DNI, it is reviewed by the inspector general and the Department of Justice—because, on the committee, we realize this requires not just the stamp of approval from Congress but the assurance by the Intelligence Committee and by every branch of government that it lives within the parameters we set.

I am not sure everybody could have heard a more thorough description than what Senator WARNER just gave and a more overwhelming voice of support than what the chairman of the Judiciary Committee, Senator GRASSLEY, gave, but let me take head-on a couple of issues that have come up and claims that have been made on this floor this afternoon.

One is, this is unconstitutional. Well, let me just be clear. This has been tested in the courts, and the courts have ruled this program is lawful, and it is constitutional. So any claim outside of that is not a claim from the Judiciary, which we trust, it is a claim from an individual, and I believe we should, in this case, trust the courts.

Let me say, Congress recognized the constitutionality of section 702 when it reauthorized the bill in 2012. Further, Federal courts have consistently upheld the constitutionality of 702. For example, in the United States v. Mohamud, the Ninth Circuit, December 5, 2016, the court unanimously held that no warrant is required for a search targeted at a foreign person abroad who lacks Fourth Amendment rights, even though some U.S. persons' communications are incidentally acquired in that collection.

The court found that section 702 collection was reasonable under the Fourth Amendment, the reasonableness balancing test, and the targeting and minimization of procedures sufficiently protected the defendant's privacy issues. It is contrary to things you heard on this floor in the last hour, but this is the Ninth Circuit, December 5, 2016, making a ruling based upon this incidental collection that applies to U.S. citizens.

What the vice chairman just shared with you is, we went a step further. We didn't leave it just with the court to determine constitutionality and the lack of a Fourth Amendment protection. We put into the bill that if it didn't have a national security implication—if it was a criminal act, and it was going to be prosecuted in the courts that way, before they could look at the content of that communication, it required them to go to the court and seek and get a warrant before, in fact, they could look at content.

So not only do we have the courts on our side saying there is no Fourth Amendment protection, we have gone a step further and said: In the case of U.S. citizens, if, in fact, they were incidentally collected and if, in fact, the information that was in the database is going to be used for a criminal case—Senator PAUL talked about marijuana—they would have to actually go to a court and get a warrant from a judge to look at that content, which means you are going to have an FBI agent who is going to make a determination whether the content of that message is valuable enough to go to the courts and seek a warrant. This is a protection for the American people. It is not a requirement for the Fourth Amendment or for the constitutionality of 702.

Now, let me just say to my colleagues, if there are any on the fence post, the Director of National Intelligence is off the floor in the Vice President's Room. If you need one of the guys who has to oversee this program, who understands the importance of it, he is here. He is ready to talk to any Member. Why? Because 702 is the single most important national security tool we have in the United States.

If you ask me to sum up what is this bill for, this is to allow government to keep the American people safe. This bill does more to allow law enforcement, intelligence, the Congress of the United States, and the executive branch to assure the American people of their safety. That is at the heart of what Congress is established for. Spending and all these things come after that, but the defense of the country, defense of each individual American is what is at the root of our responsibilities, and 702, as it relates to this age of terrorism, is the single most effective tool we have to assure the American people we are doing everything we can to provide for their safety.

I might add to that, from a standpoint of the international collection and the international cadre of terrorists, we are able to share with other countries in a way nobody else can when their country is in jeopardy of a terrorist attack, and we have multiple examples where we have shared with our partners around the world—and, I might add, we don't necessarily require them to be a partner of ours to share this with them. We take countries we have no relationship with, maybe that we don't like too much—but America is unique. If we see a terrorist attack that is imminent, we will share that with any country in the world, even our hardest enemies. So let me put aside for any question that section 702 is lawful and it is constitutional.

Let me go to the rigorous oversight that I think the vice chairman described: It is overseen by the Foreign Intelligence Service Court. It is overseen by the Department of Justice and the IG. It is overseen by the Congressional Intelligence Committee. It is required to be evaluated on an annual basis by the Justice Department and by the Bureau for procedures they have to follow.

I can't stress enough that the committee—your committee—your colleagues in Congress are the ones who you should feel most confident after reviewing and providing proper oversight for this program. You see, it is those individuals who reach the clarity that is needed for this body and for the Congress to look at the American people and say: We haven't crossed the line. We have stayed within the legal box that was created.

Don't leave it to me. Let's use the Privacy and Civil Liberties Oversight Board or, as we like to refer to it, the

PCLOB. In 2014, following an extensive review, PCLOB specifically noted in that review, to date, there are no known instances in which government personnel deliberately violated the statute, targeting procedures, or minimization procedures.

Let me say that again. The Privacy and Civil Liberties Oversight Board—which many here created—came out and in their report said: To date, there are no known instances in which government personnel deliberately violated the statute targeting procedures or minimization.

At the same time, in that report, PCLOB made a number of recommendations to the government intended to enhance the safeguards for privacy and civil liberties in section 702. In February 2016, the Privacy and Civil Liberties Oversight Board reported that all of its recommendations had been implemented, in full or in part, by the government.

Let me say that again. In February 2016, every recommendation that the Privacy and Civil Liberties Oversight Board made about this program, the PCLOB certified that those had, in full or in part, been adopted by the Federal Government.

If you only go on what you heard over the last half an hour or an hour, you would think this is riddled with questions of constitutionality and that there are massive abuses. The fact is, there have not been any, and the courts have ruled that it is constitutional, it is legal, and it does not infringe on the Fourth Amendment at all.

Let me say to my colleagues, I expected we would be here. We had a heated debate in the committee. The Presiding Officer remembers that well because he is on the committee. We considered a lot of amendments, and at the end of the day, we came out with a bill that is very similar to what we have today. A 12-to-3 vote shows tremendous bipartisan support.

Now, if Senator WARNER had written it by himself, it would probably look different. If I had written it by myself, it would probably look different. What we are asked to vote on today is a bill that looks different than what we passed out. It is a little bit stronger from the standpoint of the protection of privacy because it does institute this warrant requirement if, in fact, you want to see the content of any collection out of 702 dealing with a criminal process.

If it is national security, we are doing exactly what I think the American people want us to do. We are using the data we have to find the people who want to commit these acts and stop them before they do. If that is not the intent of this, then this probably shouldn't exist. If anybody believes terrorists have quit, and we are no longer a target, then eliminate this.

I am closer to the line than I ever thought I would be before I got to the U.S. Senate and certainly before I became chairman of the Intelligence Committee, but I do understand responsibilities. Responsibilities make sure those individuals whom we charge with protecting the American people have the tools they need to accomplish it. It is the reason we are debating, on this floor and at the other end of the Capitol, the funding of our military. It is to make sure our military has the tools they need to go out and do the mission they have been asked to do.

Well, from the Bureau to the intelligence community, we have asked them to do everything they can to make sure Americans stay safe, and this has been the most effective tool, with no abuses to date—and that is the determination of the Privacy and Civil Liberties Oversight Board, not a right-leaning institution—and the fact is, the government has lived exactly within the letters of the law that we have described.

So I urge my colleagues to vote for cloture. Let's move on to the 30 hours on this bill, if that is what, in fact, everybody demands. We have already extended it temporarily. That is not a sign of confidence to those who work in the trenches and we ask to keep us safe.

Let's do the bold thing. Let's finish this. This is a bicameral, bipartisan, negotiated bill—both sides of the aisle and both ends of the Capitol. It is time we do our business. I urge my colleagues to vote yes for cloture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I thank my colleagues. I will be very brief.

Colleagues, what we are debating is whether the Senate will be the Senate. If you vote in favor of this, you are voting for cloture, there will be no amendments then. We would have the opportunity, if we vote against cloture, for improving this bill.

I want to emphasize that if we take a short time to improve this bill, as Senator LEE, Senator LEAHY, and Senator PAUL want to do, this program continues to operate. It is not in any way going to harm our ability to fight terrorism. This program would stand.

I urge my colleagues to vote to carry out our constitutional obligation as Senators, to have real debate and vote against cloture.

I yield.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. RUBIO). Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to concur in the House amendment to S. 139, an act to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes.

Mitch McConnell, James M. Inhofe, Roy Blunt, Shelley Moore Capito, Marco Rubio, Johnny Isakson, Deb Fischer, John Boozman, Thom Tillis, Richard Burr, Pat Roberts, Orrin G. Hatch, Roger F. Wicker, John Cornyn, John Hoeven, John Thune, Mike Rounds.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment to S. 139 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Alaska (Mr. SULLIVAN).

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

The yeas and nays resulted—yeas 60, nays 38, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—60

Alexander	Feinstein	Nelson
Barrasso	Fischer	Perdue
Blunt	Flake	Peters
Boozman	Graham	Portman
Burr	Grassley	Reed
Capito	Hassan	Risch
Carper	Hatch	Roberts
Casey	Heitkamp	Rounds
Cassidy	Hoeven	Rubio
Cochran	Inhofe	Sasse
Collins	Isakson	Scott
Corker	Johnson	Shaheen
Cornyn	Jones	Shelby
Cortez Masto	Kennedy	Thune
Cotton	King	Tillis
Crapo	Klobuchar	Toomey
Donnelly	Lankford	Warner
Duckworth	Manchin	Whitehouse
Enzi	McCaskill	Wicker
Ernst	McConnell	Young

NAYS—38

Baldwin	Harris	Murray
Bennet	Heinrich	Paul
Blumenthal	Heller	Sanders
Booker	Hirono	Schatz
Brown	Kaine	Schumer
Cantwell	Leahy	Smith
Cardin	Lee	Stabenow
Coons	Markey	Tester
Cruz	Menendez	Udall
Daines	Merkley	Van Hollen
Durbin	Moran	Warren
Gardner	Murkowski	Wyden
Gillibrand	Murphy	

NOT VOTING—2

McCain	Sullivan

The PRESIDING OFFICER (Mr. DAINES). On this vote, the yeas are 60, the nays are 38.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Cloture having been invoked, the motion to refer with an amendment and the amendments pending thereto fall.

The Senator from Ohio.

BUTCH LEWIS ACT

Mr. BROWN. Thank you, Mr. President.

Thanks to Senator SCHUMER and my colleagues, who will join us in the course of the evening, for coming to the floor tonight to shine a light on the more than 1 million workers and retirees all over this country who are on the verge of facing massive cuts to the pensions they have earned. This crisis affects thousands of Ohioans—perhaps more than 60,000 is our count. It affects the massive Central States Teamsters Pension Plan, the United Mine Workers Pension Plan, the Ironworkers Local 17 Pension Plan, the Ohio Southwest Carpenters Pension Plan, the Bakers and Confectioners Pension Plan, and others. It has an impact on workers, retirees, and businesses in every single State in the United States.

It is bad enough that Wall Street squandered workers' money; it is worse that the government—that this body, that the House—hasn't yet stepped up. The government is supposed to look out for these folks and is so far turning a blind eye to the promise made to these workers.

The Senate found the time to pass a massive tax giveaway for corporations that shipped jobs overseas. We know that the tax bill made it even more likely for manufacturing companies to shut down in Mansfield or Limerick or Chillicothe or Portsmouth or Springfield, OH, and move overseas. They shut down production here and move overseas, set up production there, and sell their products back into the United States. The Senate's bill does that, but it did nothing for hard-working Americans who worked their whole lives to earn their retirement. It is disgraceful, and time is running short to make these pensions whole.

I urge my colleagues in this body—colleagues with healthcare and retirement plans paid for by taxpayers—to remember that. My colleagues—all of us have our healthcare and pensions paid by taxpayers. I urge my colleagues of this body to think about these retired workers and the stress they are facing. It is an expensive time of year for people with fixed incomes. Their heating bills go up. They try to scrape together what they can for the holidays for grandkids. They have loved ones who are sick, and some of them are sick themselves.

Remember, this is about more than just these retirees and their families; hundreds of thousands of workers give up money from each and every paycheck to fund a pension they expect to be there when they retire. Think about that. Those who haven't really looked at what happens in union negotiations, where workers sit at the bargaining table, and they give up income today to put money aside for the future for their pensions—that is what they did. They gave up income 10 years ago, 20 years ago, 30 years ago, even 40 years ago, put it aside—often matched by employers. That money then comes back to them in the form of a pension when they retire.

If we don't protect those pensions, how do any workers know their retirement is safe? How do you plan for your kids? How do you plan for your family's future? How do you do that when this kind of uncertainty hangs over your head? These Americans have done everything right. They have worked their whole lives to earn these pensions. They have put in long hours to support their families. They did it so they would be able to spend their retirement years enjoying time with their grandchildren, not worrying every day about how to make ends meet. The reason they thought it wasn't just blind hope was because of the legally binding contracts they negotiated in good faith.

When I first started in public service, when the legislature wasn't in session, I used to spend hours at the United Steelworkers Local 169 in Mansfield, OH, listening to workers talk about their dreams. We talked about a lot of things. I would talk about their kids, whom I had gone to high school with at Mansfield Junior High or Johnny Appleseed Junior High or Brinkerhoff Grade School. But one thing I heard over and over is how workers, as I said earlier, gave up pay today at the bargaining table for the promise of a pension to be there when they retired. It is pretty simple. They sat at the negotiating table. They earned their pensions. They gave up pay raises to do it. But now their government has allowed Wall Street to blow it, and tough luck for them. Not on our watch, Mr. President.

Before the holidays, I stood in this building with many of my colleagues and with Rita Lewis, the widow of Butch Lewis, who had worked 40 years as an Ohio teamster. Butch died of a heart attack on New Year's Eve a couple of years ago. If he were here today, Butch would tell you that he didn't work those 40 years to get just 40 percent of his pension. Sadly, Butch passed away far too soon after fighting for the retirement he and these workers earned. It is my honor to name our Senate bill the ''Butch Lewis Act'' after him.

This isn't a partisan issue. It affects communities we all represent. It affects Teamsters in Michigan and in Ohio. It affects workers in Montana, the Presiding Officer's State. It affects mine workers in the majority leader's State. It affects teamsters, truckdrivers, in the Democratic leader's State.

My colleagues on both sides of the aisle have voiced support and the desire to work together in good faith to keep this promise. Now we just need to sit down together, put politics aside, and get it done. A number of Republican Senators have been in negotiations with Democratic Senators that we have led to make sure this can get done. But fundamentally it is about whose side you are on. It is about who we work for. Many of my colleagues made it pretty clear in December with their tax vote that they work for Wall Street and the corporations that send job overseas, but I say we work for these truckdrivers, ironworkers, carpenters, confectionary workers, and teamsters. They are not asking for a handout; they are asking for what they earned over a lifetime of work. It is time for us to do the job the taxpayers sent us here to do and save those pensions before it is too late.

I am joined on the Senate floor today by the senior Senator from Michigan and the senior Senator from Indiana, Senator STABENOW and Senator DONNELLY, who have been very active on this issue. I know Senator CASEY is going to join us, and others who have been very active, standing up for these retirees, understanding that the teamster retirees and mine workers and ironworkers and others gave up money today, gave up raises at the bargaining table, to put money aside for retirement. We owe that to them. It is time the Senate does its job.

I yield the floor to Senator STABENOW.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, first of all, I wish to thank my friend from Ohio. Senator BROWN has been a real champion. It is wonderful to partner with him and with the senior Senator from Indiana, Mr. DONNELLY.

All of us believe strongly—and the Democratic caucus together believes strongly—that a pension is a promise, period. A pension is a promise. Too many people right now are finding themselves in a situation where they are being told that promise is not going to be kept.

For generations, millions of working men and women have built better lives for themselves in Michigan and across the country, and better lives for their families, with jobs that provided more than a paycheck. That is part of the American dream.

These folks have worked hard, and we know that the people of Michigan can outbuild and outwork and outimagine anyone. I will take on my friends from Indiana and Ohio on that one because we know that in Michigan we have bright, hard-working folks.

In exchange for a job well done, workers knew that they could count on basic benefits, including quality healthcare and a secure retirement, a pension. Jobs like these didn't just build families. We know that those jobs have built the middle class of our country—making things, growing things, creating things, and building things. That is what has created our middle class and our way of life.

Unfortunately, though, we know that jobs that provide this kind of security and stability are becoming increasingly hard to find. Even worse, some workers have discovered that the benefits they earned over years of hard

work have proven to be less than dependable. That is why we are here, because we believe a pension is a promise, and too many people are being told that promise isn't going to be kept. That is wrong.

Imagine what it is like to be one of these workers. Perhaps you spent your career behind the wheel of a truck, hauling freight. The work is dangerous. The hours are long. You are separated from your family, but you keep on driving because the pay and the benefits are good, you are taking care of your family, and you are planning for the future. You know that after driving literally millions of safe miles, you will be able to retire with dignity. You will be able to have that cottage up north in Michigan, the snowmobile, and the boat, and to send your kids to college, thanks to the pension you worked so hard and so long for.

After decades of work, you decide it is time to park the truck one last time. You say goodbye to your coworkers and hello to a new stage in your life. You plan in your retirement to spend more time at the lake, maybe even teach your grandkids to fish. You can make these plans because you know you have the security of that pension you have worked all your life for.

Then, one day, everything changes. You learn that for a variety of reasons, the fund providing your pension is running out of money—not because of your fault. In fact, you might receive little, if any, of the benefits you were counting on. What do you do? What do you do? Do you swallow your pride, sell your home, and move in with one of your kids? Would you go back to work? Would you be able to get a job?

A lot of Michigan workers don't have to imagine what they would do because they are living it right now. This is very serious.

Again, I have always believed that a pension is a promise. Shame on our country, shame on our government if we don't make sure that promise is kept.

People who worked hard to earn their retirement benefits should not have to worry about paying the power bill or putting food on the table or keeping their homes. Unfortunately, we know that a number of multi-employer pension funds, including ones in Michigan that Michigan workers depend on, face serious challenges due to the financial crisis and other factors. I remember back in 2008 and 2009, when there was a bailout that was passed for Wall Street banks, but what about the pensions that were invested? What happened to the middle-class families depending on that? We know what happened in terms of people losing their homes, and what about the other piece, which is the pensions, that lost money?

This isn't the fault of the workers, like Kenneth of Sterling Heights, MI. He is a retired teamster. He wrote to me about his fears of being able to pay his bills and cover the basics, including food, medicine, and everyday expenses. He worked hard all of his life. He doesn't want to end his life in poverty, nor should he have to.

He told me: ''We are not the people who made the bad investments of our hard-earned money and lost billions of dollars.''

Kenneth is absolutely right. This isn't the fault of the workers, and they shouldn't pay the price. They should know that the promise made to them after a lifetime of hard work will be kept.

That is why I am so pleased to be cosponsoring the Butch Lewis Act of 2017 with my colleagues who are here this evening. The bill would create a new office within Treasury called the Pension Rehabilitation Administration. The new office would give troubled pension plans the opportunity to become solid again through loans and assistance from the Pension Benefit Guaranty Corporation. With this bill, these plans would be able to pay workers all of the promised benefits with no cuts—no cuts. The plans would be required to demonstrate the ability to repay the loans at the end of the term.

Think about how Wall Street banks got loans. Shouldn't middle-class, working men and women—retirees who worked all of their lives and believed in our country, and believed that, in fact, our country would have their back—also have the same kind of opportunity to be able to protect their pensions?

Let me just say again that this is an incredibly important piece of legislation that affects millions of middle-class Americans who have worked their entire lives—people who are retired now or are near retirement or are still working hard and paying in and trust that, in fact, their pension will be there, and it is incredibly important that our country keep its promise to them.

Let me also say in conclusion that I will be reintroducing legislation that I introduced last session to address something else that I think is a matter of fairness: to prevent raises and reduce salaries of top pension fund executives if retiree benefits are cut. I understand how devastating pension cuts would be to retirees and their families, and the people making decisions—the people in power making decisions about funds—should actually be able to know that by feeling the same pain of cuts.

There is no question we need long-term solutions to the pension crisis facing our country. People who are retired right now and face losing that pension and going into poverty or people who are about to retire don't have time to wait. There is a tremendous sense of urgency about this.

Cutting benefits would place a terrible burden on retirees who have worked hard all of their lives to earn some dignity, some comfort, some security. It is people like Keith and Mary. They are both in their seventies and depend on Keith's pension and Social Security to meet their basic needs. They told me:

We try to save, but it is difficult. We are hoping that the pension will last more than 10 years, but who knows.

Keith and Mary have the right to know. They have the right to know that their country has their backs and that they can count on their pension being there.

I urge my colleagues to help keep that promise for Ken and Keith and Mary and hard-working people all across Michigan and America.

I see our leader on the floor. I want to thank him for making this a top priority as we are negotiating the priorities of this country, the priorities of the budget for next year. Making sure hard-working Americans have the promise kept of their pension is something that I know is at the top of his list, and I am proud to join him in this effort.

The PRESIDING OFFICER. The Democratic leader.

Mr. SCHUMER. Mr. President, I thank Senator STABENOW and my colleague from Indiana and my colleague from Ohio. Senators BROWN, STABENOW, DONNELLY, KLOBUCHAR, HEITKAMP, CASEY, and BALDWIN have been such stalwart voices for working men and women in their States—namely, teamsters and food workers—as well as Senator MANCHIN, for the miners in West Virginia, and so many others across the country.

We come to the floor tonight to urge our Republican colleagues to join us in doing something to shore up pension plans for over 1 million Americans. Millions of middle-class workers in this country—teamsters, miners, carpenters, and steel workers—have put their money into plans year after year. They knew they wouldn't be rich when they retired, but they thought they could live a life of decency and dignity. They often forewent salary increases. They said: Don't give me a raise at this percent; give me a lower raise, but put money in that pension. These people earned these pensions. They are the backbone of America.

But now, after all of their hard work and all of their savings, several multiyear pension plans are at risk of failure, through no fault of the workers. Families in my State and across the country could see their retirement savings slashed. Teamsters, miners, carpenters, and food service workers are at risk of losing security through no fault of their own. They weren't responsible for the stock market crash, and they weren't involved in offshore swaps in London or somewhere, but that diminished the value of these plans. They are certainly not responsible for Congress twiddling its thumbs and doing nothing in the face of these shortfalls. Teamsters in my State, for instance, are facing a 30-percent reduction in their retirement benefits. They feel the impact of the cuts every day.

So in conclusion, we have to get something done. Our Republican friends spent most of 2017 pressing legislation to help the wealthiest corporations and biggest corporations to get

big tax breaks, but what about the middle-class worker? What about the middle-class worker? Let 2018 be different. Let it be the year when we fix these plans, and let's do it in the upcoming budget deal.

I know that Senators BROWN, STABENOW, DONNELLY and so many others will continue to fight for hard-working pensioners until we fix the problem.

So again, I want to thank my good friend, the Senator from Ohio, Mr. BROWN, for organizing an outstanding group of Senators to speak this evening on a crucial topic: pensions.

Senators BROWN, STABENOW, KLOBUCHAR, HEITKAMP, DONNELLY, CASEY and BALDWIN have always been such stalwart voices for the working men and women of their States.

We all come to the floor tonight to urge our Republican colleagues to join us in doing something to shore up pension plans for over a million Americans.

Millions of middle-class workers in this country—teamsters and miners and carpenters and steel workers—put money into pension plans year after year, forgoing large salary increases or other benefits. Do you know why? Because they said: I am going to work hard my whole life, but when I retire I want to retire with some degree of dignity. And that is what they did.

But several multiemployer pension plans are at a real risk of failure. Families in my State and across the country could see their retirement savings slashed. Teamsters and miners and carpenters and food service workers are at risk of losing that security through no fault of their own.

They weren't responsible for the market crash in 2009, which diminished the value of so many of these plans. And they certainly aren't responsible for Congress twiddling its thumbs, doing nothing to fix the looming shortfalls in the many years since.

And yet, Teamsters in my State are facing a 30-percent reduction in their retirement benefits. They feel the impact of those cuts every day.

These are funds that workers contributed to, and they earned every penny. They won't allow the families of my State to buy riches or luxuries. These pension plans won't fund the purchase of yachts or beach homes. What they will do is guarantee hard-working men and women the peace of mind that comes with a secure retirement.

We have an obligation to see that the promise made to these workers is upheld. And we ought to do it soon. If we don't, it is going to cost taxpayers more in the long run. And all throughout the meantime, hardworking American families will be denied the benefits they rightly deserve.

Republicans spent most of 2017 pressing legislation that helped the wealthiest corporations and the biggest corporations to the detriment of the middle class. Let 2018 be different. Let 2018 be a year when we finally fix these pension plans. And let's do it in the upcoming budget deal.

This will be another test of the Republican majority. Will they again ignore the pressing needs of working Americans across the country? Will President Trump again talk about helping the working men and women of this country but then turn his back on them? We will see.

What I know is that Senator BROWN, and this group of Democratic Senators, will continue to fight for the hard-working pensioners of this country until we fix this problem.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. DONNELLY. Mr. President, my colleagues and I are on the Senate floor tonight on behalf of the hundreds of thousands of Americans whose pensions are at serious risk.

For generations, there has been an expectation in our country that if you worked hard and earned a pension, that pension would be there in retirement. Unfortunately, that promise is now in question.

Due to corporate bankruptcies, the financial crisis, and underfunding, among other reasons, some of the largest pension funds in this country are at risk of insolvency, potentially leaving retirees with pennies on the dollar. I know firsthand the value of a pension. My late father-in-law was a teamster. His pension allowed him to help support his family and it provided him with the dignity of a decent retirement.

Hundreds of thousands of Americans will go to sleep tonight uncertain about their financial security. I have met these retirees. I have stood with them at rallies. I have attended their meetings.

Just 10 days ago, back home in Indiana, I joined roughly 300 teamsters, both active and retired, from all corners of Indiana. They met in Indianapolis to try to learn what the future would hold. They simply want the pensions they worked so hard for and spent so many hours laboring for—and that they earned. They simply want what was promised to them and what their hard work earned for them.

Unless Congress acts soon, in Indiana alone, 22,000 teamsters and 2,700 mine workers are at risk of significant pension cuts. That is why I cosponsored the Butch Lewis Act and the American Miners Pension Act. These bipartisan bills would ensure retirees receive their pensions. Both bills create a loan program that extends the solvency of at-risk pension plans.

I also continue to work with Senators in both parties to build support and to find a solution. Conversations need to turn into that solution before the pension shortfall grows even worse. If we don't act, the solution becomes more costly every day.

The Department of Labor lists 144 multi-employer plans as being in critical or endangered status. The at-risk plans include ironworkers, roofers, machinists, fishermen, plumbers, bricklayers, and carpenters, among others.

We need to shore up our pension system before the problem grows worse. The failure of these plans would not just devastate the impacted retirees, it could be economically damaging to impacted communities and could lead to the insolvency of the Pension Benefit Guaranty Corporation—the PBGC—which provides pension insurance.

Last year, we similarly stood on this Senate floor together—not as Republicans, not as Democrats, but as Americans—to fight for health benefits for the retired mineworkers. We solved that issue. We reached a compromise by working together, Republicans and Democrats together, and passed a permanent solution that was signed into law. Let's do it again here.

We have an opportunity to do the right thing—to ensure hundreds of thousands of Americans have the financial support they expected, that they worked nonstop for, and that they receive the pensions they earned. A solution is right here in our grasp. We have to get this done, and I urge the Senate to act immediately.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Ms. BALDWIN. Mr. President, I rise to join my colleagues in our fight to keep a promise made to workers and retirees across this country. I will start with where we were, where we are now, and what Washington needs to do to keep these promises.

A little over 2 years ago, Central States pension had an application before the Treasury Department, which had it been approved would have meant deep cuts to pensions that had already been earned over a lifetime of hard work.

Retirees in my home State of Wisconsin began to receive letters notifying them that their pensions could be cut by 30, 50, and, in some cases, as much as 70 percent. Treasury made the right decision and rejected these pension cuts. That was an important victory, but we have always known there is more work to be done, that we have to find a long-term solution that keeps these promises.

I am talking about a promise made to Bernie in Franklin, WI, who would have lost about one-third of his pension if the Central States application had actually gone through. I am talking about a promise made to Kenny from Menomonee Falls, WI, who spent most of his career in trucking, paying into a pension fund to safeguard his family's future. He got a letter notifying him that his pension might be cut by 55 percent. I am talking about promises made to 25,000 retirees and workers in the State of Wisconsin. They have been living with the fear and uncertainty of not knowing whether the retirement security they saved for and sacrificed for, and that their families depend upon, will be there when they need it.

If Washington does not act, these workers and retirees will face massive

cuts to their pensions earned over decades of work.

I have been proud to work side by side with Wisconsin retirees and with Senator SHERROD BROWN to introduce the Butch Lewis Act. The bill will put failing pension plans, including Central States, back on solid ground to ensure they can meet their commitments to retirees today and workers in decades to come, and it does so without cutting a single cent from the benefits retirees have earned.

In the time since Central States submitted its application to the Treasury Department, I have met with retirees in Milwaukee, Green Bay, and Endeavor, WI—last week, I was in Brookfield, WI, with many more than 200 retirees and workers—who are counting on Washington to pass this bill.

Washington needs to act. We need to pass the Butch Lewis Act, and we need to do it soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise to join my colleagues in calling for action—action to protect the hard-earned benefits of pensioners, hard-working people all across my State. I thank my colleague Senator BROWN for organizing these speeches and my neighbor to the east, Senator BALDWIN from Wisconsin, for her eloquent words on behalf of the workers in her State.

I know how important benefits are to workers firsthand. My grandpa was one of many children, growing up in the Iron Range of Minnesota. He loved school, but he had to quit at age 15 to help support his family. First, he got a job as a teamster, pulling a cart, and then at a very young age, he went to work in the iron ore mines in Ely, MN.

He had wanted to be in the Navy. He had wanted to sail the world. Instead, he spent his entire life to support his eight brothers and sisters and then, later, my dad and my uncle. He spent his entire life working 1,500 feet underground, and he would go down the mine shaft every single day with his black lunch bucket, and I often thought: What did he think of when he went down that mine shaft? Did he think of that life at sea, of school, of other things? He felt he had an obligation, and that obligation was not only important to our family, which somehow ended up with me in the U.S. Senate, but it was also an obligation that was so important to our country, because when you go back as far as World War II, it was the iron ore that was made into the steel that built our country—our factories, our skyscrapers, and our ships and tanks that won that war. That is what my grandpa did, and it was dangerous back then.

My grandma would always tell me how you would hear this whistle go off, and it meant someone was either very hurt or killed in the mines, and all of the wives would go and stand outside that mine to see what miner was going to be brought up injured or worse. My dad remembers seeing the coffins in the church in Ely lined up of miners who had been killed. This wasn't that long ago.

When someone does something like that for their family and for their country, promises that were made to them should be kept. Because my grandpa stayed in that job—over time, the safety requirements got better, the benefits got better—he was able to get healthcare, he was able to save money in a coffee can in the basement of their little house so he could send my dad and his brother to college. That all happened.

So when he got sick, he should be able to have healthcare, right? Well, he did. He had cancer, but he was able to have healthcare. When my grandma got older and lived into her late eighties, she was able to stay at assisted living. That all happened because promises made to those workers were kept.

The promise made to the workers in multiemployer pension plans is simple; that the pension they have earned through their decades of hard work will be there when they retire.

Saving for retirement is often described as the three-legged stool: Social Security, a pension, and personal savings. A stable and secure retirement relies on all three legs being strong, but some multiemployer pension plans are facing funding challenges that could weaken one of those legs. Over 10 million Americans participate in a multiemployer pension plan and rely on these benefits for a safe and secure retirement.

The Central States Pension Plan is such a plan. It was established in 1955 to help truckers save for retirement. That was while my grandpa was still in the mines. Today, the Central States Pension Plan includes workers from the carhaul, tankhaul, pipeline, warehouse, construction, clerical, food processing, dairy, and trucking industries.

In my State, there are over 21,000 workers and retirees in the plan—and this affects workers and retirees from all over the Midwest. I guess that is why it is called the Central States plan: Nearly 48,000 workers and retirees in Ohio, over 47,000 in Michigan, over 32,000 in Missouri, nearly 25,000 in Wisconsin, and over 2,000 in North Dakota.

In fact, when this issue first came up, and this was rushed over from the House—and we really didn't know the impact it would have in our States because there hadn't been a lot of thought in how this thing was done when it was part of a bigger bill—I voted against that bill because if this thing is called Central States, and I have a bunch of people calling me, I probably have a lot of people who are impacted. Unfortunately, that thing was rushed through, and people didn't have their say. In fact, 7 of the top 10 States in the Central States Pension Plan are Midwestern States.

In September of 2015, the Central States submitted a proposal to the Treasury to reduce pension benefits for workers and retirees under the Multiemployer Pension Relief Act of 2014.

Treasury reviewed the proposal, which would have resulted in benefits cut for over 270,000 Central State retirees and workers. Some of these pension cuts were as high as 50, 60, and even 70 percent. Imagine someone who has spent their life driving a truck, saving money, and then suddenly one day they find out they are going to lose 70 percent of their pension.

I heard from people all over my State how devastating these proposed cuts would have been. People were concerned that they would not be able to afford their medication or that they might have to sell their house. Many are in their sixties, seventies, or even eighties and are not able to go back to work.

I stood up with many of my colleagues and fought against that proposal for a very simple reason: It was the right thing to do. We raised significant concerns about the plan, and the Treasury Department—in a move that I think surprised some of us, pleasantly, but not those who are on the frontlines every day, whom I am looking up at in the Gallery—rejected that proposal.

While we temporarily averted a very bad plan going into effect, this issue is not going away. The Central States Pension Plan still faces insolvency by 2025, and more than 70,000 Minnesotans are in multiemployer pension plans that are facing funding shortfalls. More than 100 of these pension plans are facing funding challenges and do not have sufficient plan assets

Pensioners across our State and our country depend on their pensions. People like Sherman from my State, in Northern Minnesota—exactly the area I just talked about my dad being from, where my grandpa worked in the mines. Sherman has been working tirelessly on this issue and raising it at a national level, and workers and retirees whom I continue to meet are asking us and looking for us to take action.

That is why I have joined with my colleagues to cosponsor the Butch Lewis Act, and I thank Senator BROWN for his leadership on this legislation. This bill is a win-win for employers, employees, retirees, and Americans.

The bill would put the pension plan back on solid footing and ensure that the plans could meet their obligations to retirees and workers for decades to come. This would happen without cutting a single cent from the benefits our workers and retirees have earned, worked hard for, paid into the pension plan for, and built their retirement around.

The introduction of the Butch Lewis Act has been an important step forward in elevating the need for action. So as congressional leaders work to negotiate a deal to raise the budget spending caps, the pension crisis should

be a funding priority. It should be included in any comprehensive budget deal.

Somehow, in this very Chamber, people found a way to do a bunch of tax cuts. Some of them were there for the middle class, but a lot of them helped the wealthy. Somehow they found their way to that. Well, they had better find their way to include this because this is about working people.

We owe it to all Americans who played by the rules and worked hard throughout their lives secure pensions.

I stand today ready to work with our colleagues on the floor and across the aisle on a bipartisan solution. We all know that delay only makes the solution more costly. The time is here. We can't put it off any longer. We must move forward now to get this done for our workers, for our businesses, and for our country.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

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

Mr. CASEY. Mr. President, I rise to speak as well about the issue of pensions, as many of my colleagues have been speaking about tonight. First of all, I want to outline a series of what I believe to be promises that the Senate and the House must keep with large segments of the American people.

Last year at this time, we were in a long debate, which had transpired over months, and the main issue there was healthcare for retired coal miners and their families. This was a promise made to coal miners across the country—thousands of them across the country and thousands in Pennsylvania alone—who were promised they would have healthcare in their retirement. That promise went unfulfilled despite the fact that we got a bill through the Senate Finance Committee, as we were instructed to do, to follow so-called regular order—have a hearing, have a vote, get it through the committee—but it was held up month after month, really from the fall of 2016 until April of 2017. That promise almost went unfulfilled, and it took far too long, but eventually we got it done.

At that time, we made another promise to those same coal miners that we would work on the pension issue for them. That was the second half of the original legislation.

When it comes to promises, we have promises to keep to those Americans who worked so hard in the most difficult job in the world.

We also have some promises that must be fulfilled. I would hope that the Republican leadership and Republican Members of the House and the Senate, along with the administration—one party in charge of two branches of government—would keep their promise to 9 million American children. The Children's Health Insurance Program is more than 100 days overdue from being reauthorized. Everyone says they are for it, but it is not done. It was set aside to get a tax bill done, which, in my judgment, was a giveaway to the superrich and big corporations. Even if you wanted to support the tax bill, why couldn't you carve out some time by the end of the year, I asked the majority, to get the Children's Health Insurance Program reauthorized? Nine million kids; one hundred eighty thousand in Pennsylvania. Why couldn't you get it done?

Here we are now in the middle of January facing yet another deadline, and the Children's Health Insurance Program is not yet reauthorized. That is a promise. We will see by the end of the week whether the majority keeps its promise to those 9 million children.

The pension issue is the one I am going to talk about tonight, but there is also a promise that was made to approximately 800,000 young people, the individuals in the so-called DACA Program, the Dreamers. That is another promise.

The promise we are talking about tonight, at least on this side of the aisle in the Senate, is the promise of pensions. Why do so many pension plans face the obstacles, the burdens, and the crisis they face right now? The two main reasons are, first and foremost, the financial crisis, which wiped out stock holdings just as these members were retiring, and, of course, the second reason is substantial job loss in the industries that are affected by these pension plans.

While Wall Street and the gross domestic product have recovered from the horrific financial crisis that the country has now recovered from, but some people are still being hurt by it, and as the wealthier are doing better than ever—the number that was cited a couple of months ago was that since 1980, the share of national income—if you took all the income in the country, the share of national income held by the top 1 percent was 11 percent in 1980. That is a pretty high number for 1 percent. They had 11 percent of the national income. What was it in 2014? It had almost doubled to 20 percent. So when I say that the very wealthy, the top 1 percent, have done quite well—I have even used the word ''bonanza''—they have done very well since 1980—I can back it up with a number, and that is the number. So even as they are doing better, and those other indicators might seem better, wages and opportunities for the middle class have stagnated, and our pensions have paid the price.

Workers across the country—including tens of thousands of coal miners, teamsters, and bakery and confectionary workers in Pennsylvania—are living with the worry that their pensions may not remain solvent. They played by the rules. They paid their dues. They put in their time for their companies. They and their children paid the price during the financial crisis with their jobs and their wages. They should not have to continue to pay the price in retirement through reductions in promised pension benefits.

It is inexcusable and insulting for Americans to live with this type of worry, wondering whether they will have the quality of life in retirement they planned for and depended upon throughout their careers—careers of hard work and sacrifice, careers of giving so much to their companies and in many cases, so much to their country as well. Yet we have that uncertainty facing those individuals and their families. They are wondering whether, after decades of working in jobs that took a toll, in many cases, on their own bodies, they will need to go back to work so they can afford the heating bills or the cost of medication. That is insulting.

We must take action now to shore up our pension system, to keep the promise to the Americans who made our country what it is today—the greatest in the world, for sure. We know where Democrats stand on this issue. We are with workers. The question now is whether Republicans will work with us to get this done.

As I said before, Republicans have all the votes they need to get this done. They didn't flinch in December when it was a question of whether they would give $13 billion in tax windfalls to the Nation's largest banks. All of that, of course, was unpaid for. We know where Republicans stand when it comes to giving away billions of dollars in borrowed money to large, profitable corporations. That was the tax bill that I mentioned before. We will soon find out whether they stand with workers when it comes to their pensions.

The Republican Congress needs to act now to make sure that we pass what is called the Butch Lewis Act to give retirees in Pennsylvania and others across the country the peace of mind that comes with knowing their retirement is secure. It is fundamental. This is a promise. It is either going to be kept, or it is going to be violated. This is the week to ensure that it is kept for those Americans who have worked so hard. They deserve these pensions. They have earned them. We need to keep our promise. The majority needs to keep its promise.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

REMEMBERING THE REV. DR. MARTIN LUTHER KING, JR.

Mr. CARDIN. Mr. President, today I wish to celebrate the life and legacy of Dr. Martin Luther King, Jr., whose birthday the Nation celebrated yesterday. Dr. King once said: ''The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.'' These words are a specter, speaking to us now as though written for political moments precisely like the one we find ourselves in today. These words reflect the wisdom and tenacity of a man who deftly shaped his own moment and made our country better, fairer, and more just in the process.

Dr. King was a remarkable figure, perhaps most of all because he was an ordinary man—a husband and a father like so many others—who made extraordinary choices. In the face of a society that told him he must sit down, he chose to take a stand. In the face of evil and systemic bigotry, he chose to embody the tenets of love and peace. In the face of improbable odds, he chose to fight. As a result, his legacy of tolerance, respect, and equality is forever cemented in the very foundation of this country, and we are all the better for it.

Right up until the moment his life was taken from him, 50 years ago this year, Dr. King fought for an equal society, an equitable society, wherein we would judge one another not by the color of each other's skin, but by the content of our character. He was a shining beacon for all those who had come before him and all those who would come after, who, at tremendous risk to their own lives and livelihoods, have fought ceaselessly in the name of civil rights, fair wages, the eradication of poverty, and the right of all Americans to vote.

His wisdom still guides us even now, so many decades removed from his time here. When, in the 2013 case Shelby County v. Holder, the Supreme Court dismantled the Voting Rights Act that Dr. King was instrumental in passing, many of us vowed to persevere, to pass new legislation, knowing that is what Dr. King would have expected and would have done himself. Discriminatory practices such as voter identification requirements have made a resurgence in recent years, making it more difficult for citizens to exercise their most basic, fundamental right. Bigoted, hateful rhetoric has sadly continued into our lifetime, threatening the livelihoods and the dignity of people of color all across America. Misunderstanding of those from other countries or backgrounds all too often guides our politics, and fringe groups are all too often successful in stoking that fear into hate.

Despite all of this, I am optimistic about our future because, as Dr. King put it best, ''The arc of the moral universe is long, but it bends toward justice.'' That is the other half of Dr. King's legacy: hope—pure, undiluted, undeterred. We have tremendous challenges before us, just as he did then. I am hopeful when I watch Dreamers march on the U.S. Capitol, asking us to live up to our own promise as a nation. I am hopeful when I see women of all races, creeds, orientations, and backgrounds rally together as one, demanding to be heard, to be believed, to be counted. I am hopeful when I watch Black Lives Matter organize incredible, peaceful protests, keeping us all accountable, and I am hopeful when I see Americans of all different stripes join them.

Today both Dr. King's message and methods are as relevant as ever. He lives on in the footfall of peacefully marching protesters and in every word spoken in opposition to inequality and injustice. He lives on in the diversity of our college campuses and the all-too-slow, but steady, representation of people of color in our government. He lives on in all the ordinary men and women of this country who, every day, make extraordinary choices, like meeting hate with love, and the darkness of our troubled times with the light of their own hope.

Even in difficult times, through violence and denial, Dr. King maintained his dream, and as he said in the last sermon he gave in Tennessee, through every plight, he saw the Promised Land upon that great mountaintop. As we come together to celebrate his birthday, let us pledge to follow his footsteps up that mountain, to carry on his dream, until we meet him there.

REMEMBERING JOSEPH WILLIAM NOVOTNY

Mr. TESTER. Mr. President, I ask unanimous consent to have printed in the RECORD the remarks I gave at the medal presentation to Joseph William Novotny's family on January 13. 2018, in Glendive, MT.

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

U.S. Senator Jon Tester

Joseph William Novotny Medal Presentation

January 13, 2018

Glendive, Montana

Thank you all for being here today. And a special welcome to Emma Bartholomew, Kathy Hegel and all of Joe's family.

Today is a day years in the making. The efforts to get Joe the recognition and military medal he deserves has spanned years and generations of his family.

One of my greatest honors in the U.S. Senate is recognizing the service of the brave men and women who serve our country. Men like Joe who don't often seek recognition for their bravery.

It's my honor to be here today to present Ms. Bartholomew with her brother's medal. I will now read the citation that was printed in the United States Congressional Record, forever commemorating Joe's actions and the long overdue medal that now belongs to his family.

CONGRESSIONAL RECORD

Mr. President, I rise today to recognize the service and courage of Mr. Joseph William Novotny.

Joe was born in Wibaux, Montana, the seventh of eight children, and grew up roaming the plains of Eastern Montana.

Joe had recently finished his second year of high school at Sacred Heart Catholic School in Miles City when he enlisted in the military. It was a week after his 17th birthday, nearly a year before he was eligible for the draft.

He would serve in the Navy, spending two years on board the U.S.S. *John R. Craig*. Joe would be honorably discharged in July of 1950, days before the three year anniversary of his enlistment.

Civilian life wouldn't hold Joe for long. He reenlisted, this time in the U.S. Army, in time to deploy to the conflict of the Korean War.

On March 1, 1951, Private First Class Novotny's unit was pinned down by intense enemy machine gun fire. Before long, several of his fellow infantrymen were wounded.

Looking around him, at wounded soldiers, with bullets whizzing around them, Joe made a gut decision.

He was the division litter bearer, and he went to work.

In the ultimate display of courage and selfless sacrifice, Joe abandoned his covered position to run across the bullet-riddled terrain toward some of the wounded American soldiers. Again he found himself pinned down by enemy fire, before he could reach his fellow soldiers.

Several times Joe moved to reach the wounded soldiers in his unit. Several times he risked his own life to reach his peers.

It was only after a bullet struck his knee that he crawled back to cover. He received treatment in the field before being transported to a military hospital. He remained there for about four months before he could travel back to the United States.

Like so many of his fellow soldiers, Joe's injuries followed him home. By his early 50's Joe was relying on VA assisted living facilities as he struggled with his injury and subsequent related illnesses.

Joe passed away February 24, 2005.

It wasn't until after his death that his brother began to look in to Joe's service. While his brother passed away before his search could bear fruit, his niece Kathy took things up.

Today, I want the record to show that this was a man who volunteered to serve his country, not once, but twice, in two branches of the military.

A man who despite heavy enemy fire, risked his own life to get his fellow wounded soldiers. He only stopped once he himself was wounded.

A humble man who didn't speak much about his military service after his discharge, despite the actions that earned him four distinct military honors.

Joseph Novotny is an American hero, and I am honored to present his story and to ensure that it is celebrated in America's history forever.

Mr. President, I yield the floor.

200TH ANNIVERSARY OF MEXICO, MAINE

Ms. COLLINS. Mr. President, today I wish to commemorate the 200th anniversary of the town of Mexico, ME. Mexico was built with a spirit of determination and resiliency that still guides the community today, and this is a time to celebrate the generations

of hard-working and caring people who have made it such a wonderful place to live, work, and raise families.

The year of Mexico's incorporation, 1818, was but one milestone in a long journey of progress. For thousands of years, the land of fields, streams, and forests of what is now Oxford County was the home of the Abenaki. The reverence the Abenaki had for the natural beauty and resources of the region is upheld by the people of Mexico today.

In 1789, the Massachusetts General Court granted 30,000 acres on the banks of the Androscoggin River to Colonel John Holman, a hero of the American Revolution. Officially named Township Number 1, the new settlement was popularly known by its growing population as Holmanstown. Upon incorporation in 1818, the townspeople chose a name that was inspired by the ongoing struggle by the country of Mexico for independence from Spain and that reflected their own commitment to American liberty.

With the mighty Androscoggin River providing power, Mexico soon was home to many lumber, grain, and textile mills. When the first paper mill opened across the river in Rumford in 1893, the people of Mexico were part of the skilled and dedicated workforce that built a great Maine industry. The prosperity produced by hard work and determination was invested in schools and churches to create a true community.

Today visitors and residents alike enjoy Mexico's scenery, historic buildings, and outdoor recreation opportunities. The energy and planning that are going into Mexico's 200th anniversary celebration demonstrate the pride townspeople have in their town.

The celebration of Mexico's 200th anniversary is not merely about the passing of time; it is about human accomplishment. We celebrate the people who, from the dawn of our Nation to our time, have pulled together, cared for one another, and built a great community. Thanks to those who came before, Mexico, ME, has a wonderful history. Thanks to those there today, it has a bright future.

MESSAGES FROM THE HOUSE

At 4:33 p.m., a message from the House of Representatives, delivered by Mr. Novotny, 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. 4578. An act to authorize certain counter terrorist networks activities of U.S. Customs and Broder Protection, and for other purposes.

H.R. 4708. An act to amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to issue Department of Homeland Security-wide guidance and develop training programs as part of the Department of Homeland Security Blue Campaign, and for other purposes.

ENROLLED BILLS SIGNED

At 7:12 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 984. An act to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.

H.R. 4641. An act to authorize the President to award the Medal of Honor to John L. Canley for acts of valor during the Vietnam War while a member of the Marine Corps.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4578. An act to authorize certain counter terrorist networks activities of U.S. Customs and Border Protection, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2311. A bill to amend title 18, United States Code, to protect pain-capable unborn children, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, and was referred as indicated:

EC–4040. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to discretionary appropriations legislation; to the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on the Judiciary, with amendments:

S. 2152. A bill to amend title 18, United States Code, to provide for assistance for victims of child pornography, and for other purposes.

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. LEE (for himself and Mr. CRUZ):

S. 2306. A bill to amend the Internal Revenue Code of 1986 to encourage the use of 529 plans and Coverdell education savings accounts, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. BROWN):

S. 2307. A bill to require countries to comply with certain labor standards to be eligible for the Generalized System of Preferences, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. PORTMAN):

S. 2308. A bill to provide for the suspension of the eligibility for the Generalized System of Preferences of countries that fail to meet minimum standards for the elimination of human trafficking, and for other purposes; to the Committee on Finance.

By Mr. MERKLEY (for himself and Mr. KAINE):

S. 2309. A bill to provide a process for ensuring the United States does not default on its obligations; to the Committee on Finance.

By Mr. TESTER:

S. 2310. A bill to require the United States Trade Representative to permit the public to submit comments on trade agreement negotiations through the Internet; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. LANKFORD, Mr. BLUNT, Mr. HATCH, Mr. MCCAIN, Mr. DAINES, Mr. SCOTT, Mr. GRASSLEY, Mr. INHOFE, Mr. CRUZ, Mr. LEE, Mr. PORTMAN, Mr. MORAN, Mr. SASSE, Mr. BOOZMAN, Mr. PERDUE, Mr. CASSIDY, Mr. TILLIS, Mr. COCHRAN, Mrs. ERNST, Mr. MCCONNELL, Mr. ROUNDS, Mr. ROBERTS, Mr. COTTON, Mr. WICKER, Mr. RISCH, Mr. PAUL, Mr. CORNYN, Mr. BURR, Mr. BARRASSO, Mrs. FISCHER, Mr. ISAKSON, Mr. THUNE, Mr. JOHNSON, Mr. SHELBY, Mr. FLAKE, Mr. ENZI, Mr. YOUNG, Mr. SULLIVAN, Mr. RUBIO, Mr. KENNEDY, Mr. CORKER, Mr. CRAPO, Mr. HOEVEN, Mr. TOOMEY, and Mr. HELLER):

S. 2311. A bill to amend title 18, United States Code, to protect pain-capable unborn children, and for other purposes; read the first time.

By Mr. CASSIDY:

S. 2312. A bill to provide a moratorium on registration of new non-rural section 340B hospitals and associated sites, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VAN HOLLEN (for himself and Mr. RUBIO):

S. 2313. A bill to deter foreign interference in United States elections, and for other purposes; to the Committee on Banking, Housing, and Urban 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. DAINES (for himself, Mr. HATCH, Mr. LANKFORD, Mr. RISCH, Mr. BLUNT, Mr. INHOFE, Mr. COTTON, Mr. CRAPO, Mr. LEE, Mr. BOOZMAN, Mr. TILLIS, and Mrs. ERNST):

S. Con. Res. 32. A concurrent resolution affirming the importance of religious freedom as a fundamental human right that is essential to a free society and protected for all people of the United States under the Constitution of the United States, and recognizing the 232nd anniversary of the enactment of the Virginia Statute for Religious Freedom; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 326

At the request of Mr. HELLER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 326, a bill to amend the Internal Revenue Code of 1986 to provide for the tax-exempt financing of certain government-owned buildings.

S. 411

At the request of Mr. CARDIN, the name of the Senator from Minnesota

(Ms. SMITH) was added as a cosponsor of S. 411, a bill to eliminate racial, religious, and other discriminatory profiling by law enforcement, and for other purposes.

S. 424

At the request of Mr. BOOKER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 424, a bill to amend title 5, United States Code, to include certain Federal positions within the definition of law enforcement officer for retirement purposes, and for other purposes.

S. 479

At the request of Mr. BROWN, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor of S. 479, a bill to amend title XVIII of the Social Security Act to waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic intervention is required during the screening.

S. 482

At the request of Mr. THUNE, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 482, a bill to amend the Internal Revenue Code of 1986 to treat certain amounts paid for physical activity, fitness, and exercise as amounts paid for medical care.

S. 693

At the request of Ms. BALDWIN, the names of the Senator from Colorado (Mr. GARDNER) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 693, a bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care at accredited allopathic and osteopathic medical schools, nursing schools, social work schools, and other programs, including physician assistant education programs, to promote education and research in palliative care and hospice, and to support the development of faculty careers in academic palliative medicine.

S. 793

At the request of Mr. BOOKER, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor of S. 793, a bill to prohibit sale of shark fins, and for other purposes.

S. 842

At the request of Mr. BOOKER, the name of the Senator from Minnesota (Ms. SMITH) was added as a cosponsor of S. 842, a bill to prohibit Federal agencies and Federal contractors from requesting that an applicant for employment disclose criminal history record information before the applicant has received a conditional offer, and for other purposes.

S. 999

At the request of Mr. MENENDEZ, the name of the Senator from California (Ms. HARRIS) was added as a cosponsor of S. 999, a bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf in the Mid-Atlantic, South Atlantic, North Atlantic, and Straits of Florida planning areas.

S. 1050

At the request of Ms. DUCKWORTH, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 1050, a bill to award a Congressional Gold Medal, collectively, to the Chinese-American Veterans of World War II, in recognition of their dedicated service during World War II.

S. 1106

At the request of Mr. MERKLEY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1106, a bill to designate the same individual serving as the Chief Nurse Officer of the Public Health Service as the National Nurse for Public Health.

S. 1503

At the request of Ms. WARREN, the name of the Senator from Illinois (Ms. DUCKWORTH) was added as a cosponsor of S. 1503, a bill to require the Secretary of the Treasury to mint coins in recognition of the 60th anniversary of the Naismith Memorial Basketball Hall of Fame.

S. 1591

At the request of Mr. VAN HOLLEN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1591, a bill to impose sanctions with respect to the Democratic People's Republic of Korea, and for other purposes.

S. 1693

At the request of Mr. BLUMENTHAL, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor of S. 1693, a bill to amend the Communications Act of 1934 to clarify that section 230 of that Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sex trafficking.

S. 1764

At the request of Mr. BOOKER, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 1764, a bill to extend the principle of federalism to State drug policy, provide access to medical marijuana, and enable research into the medicinal properties of marijuana.

S. 1920

At the request of Mr. BOOKER, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1920, a bill to amend title 40, United States Code, to direct the Administrator of General Services to incorporate bird-safe building materials and design features into public buildings, and for other purposes.

S. 2121

At the request of Mr. BENNET, the name of the Senator from Nevada (Ms. CORTEZ MASTO) was added as a cosponsor of S. 2121, a bill to amend title XVIII of the Social Security Act to require reporting of certain data by providers and suppliers of air ambulance services for purposes of reforming reimbursements for such services under the Medicare program, and for other purposes.

S. 2235

At the request of Mr. DONNELLY, the name of the Senator from Arkansas (Mr. COTTON) was added as a cosponsor of S. 2235, a bill to establish a tiered hiring preference for members of the reserve components of the Armed Forces.

S. 2295

At the request of Mr. SCHATZ, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 2295, a bill to increase the rates of pay under the General Schedule and other statutory pay systems and for prevailing rate employees by 3.0 percent, and for other purposes.

S. RES. 363

At the request of Mr. NELSON, the name of the Senator from Wisconsin (Ms. BALDWIN) was added as a cosponsor of S. Res. 363, a resolution expressing profound concern about the growing political, humanitarian, and economic crisis in Venezuela and the widespread human rights abuses perpetrated by the Government of Venezuela.

S. RES. 367

At the request of Mr. CRUZ, the names of the Senator from South Carolina (Mr. SCOTT) and the Senator from South Dakota (Mr. ROUNDS) were added as cosponsors of S. Res. 367, a resolution condemning the Government of Iran for its violence against demonstrators and calling for peaceful resolution to the concerns of the citizens of Iran.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 32—AFFIRMING THE IMPORTANCE OF RELIGIOUS FREEDOM AS A FUNDAMENTAL HUMAN RIGHT THAT IS ESSENTIAL TO A FREE SOCIETY AND PROTECTED FOR ALL PEOPLE OF THE UNITED STATES UNDER THE CONSTITUTION OF THE UNITED STATES, AND RECOGNIZING THE 232ND ANNIVERSARY OF THE ENACTMENT OF THE VIRGINIA STATUTE FOR RELIGIOUS FREEDOM

Mr. DAINES (for himself, Mr. HATCH, Mr. LANKFORD, Mr. RISCH, Mr. BLUNT, Mr. INHOFE, Mr. COTTON, Mr. CRAPO, Mr. LEE, Mr. BOOZMAN, Mr. TILLIS, and Mrs. ERNST) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

Mr. DAINES. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. CON. RES. 32

Whereas the democracy of the United States is rooted in the fundamental truth

that all people are created equal, endowed by the Creator with certain inalienable rights, including life, liberty, and the pursuit of happiness;

Whereas the freedom of conscience was highly valued by—

(1) individuals seeking religious freedom who settled in the colonies in the United States;

(2) the founders of the United States; and

(3) Thomas Jefferson, who wrote in a letter to the Society of the Methodist Episcopal Church at New London, Connecticut, dated February 4, 1809, that ''[n]o provision in our Constitution ought to be dearer to man than that which protects the rights of conscience against the enterprizes of the civil authority'';

Whereas the Virginia Statute for Religious Freedom was—

(1) drafted by Thomas Jefferson, who considered the Virginia Statute for Religious Freedom to be one of his greatest achievements;

(2) enacted on January 16, 1786; and

(3) the forerunner to the Free Exercise Clause of the First Amendment to the Constitution of the United States;

Whereas section 2(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6401(a)) states that—

(1) ''[t]he right to freedom of religion undergirds the very origin and existence of the United States''; and

(2) religious freedom was established by the founders of the United States ''in law, as a fundamental right and as a pillar of our Nation'';

Whereas the role of religion in society and public life in the United States has a long and robust tradition;

Whereas individuals who have studied the democracy of the United States from an international perspective, such as Alexis de Tocqueville, have noted that religion plays a central role in preserving the Government of the United States because religion provides the moral base required for democracy to succeed;

Whereas, in Town of Greece v. Galloway, 134 S. Ct. 1811 (2014), the Supreme Court of the United States affirmed that ''people of many faiths may be united in a community of tolerance and devotion'';

Whereas the principle of religious freedom ''has guided our Nation forward'', as expressed by the 44th President of the United States in a Presidential proclamation on Religious Freedom Day in 2011, and freedom of religion ''is a universal human right to be protected here at home and across the globe'', as expressed by that President of the United States on Religious Freedom Day in 2013;

Whereas ''[f]reedom of religion is a fundamental human right that must be upheld by every nation and guaranteed by every government'', as expressed by the 42nd President of the United States in a Presidential proclamation on Religious Freedom Day in 1999;

Whereas the First Amendment to the Constitution of the United States protects—

(1) the right of individuals to freely express and act on the religious beliefs of those individuals; and

(2) individuals from coercion to profess or act on a religious belief to which those individuals do not adhere;

Whereas ''our laws and institutions should not impede or hinder but rather should protect and preserve fundamental religious liberties'', as expressed by the 42nd President of the United States in remarks accompanying the signing of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.);

Whereas, for countless people of the United States, faith is an integral part of every aspect of daily life and is not limited to the homes, houses of worship, or doctrinal creeds of those individuals;

Whereas ''religious faith has inspired many of our fellow citizens to help build a better Nation'' in which ''people of faith continue to wage a determined campaign to meet needs and fight suffering'', as expressed by the 43rd President of the United States in a Presidential proclamation on Religious Freedom Day in 2003;

Whereas, ''from its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution'', as noted in section 2(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6401(a));

Whereas Thomas Jefferson wrote—

(1) in 1798 that each right encompassed in the First Amendment to the Constitution of the United States is dependent on the other rights described in that Amendment, ''thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press: insomuch, that whatever violated either, throws down the sanctuary which covers the others''; and

(2) in 1822 that the constitutional freedom of religion is ''the most inalienable and sacred of all human rights'';

Whereas religious freedom ''has been integral to the preservation and development of the United States'', and ''the free exercise of religion goes hand in hand with the preservation of our other rights'', as expressed by the 41st President of the United States in a Presidential proclamation on Religious Freedom Day in 1993; and

Whereas we ''continue to proclaim the fundamental right of all peoples to believe and worship according to their own conscience, to affirm their beliefs openly and freely, and to practice their faith without fear or intimidation'', as expressed by the 42nd President of the United States in a Presidential proclamation on Religious Freedom Day in 1998: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) on Religious Freedom Day on January 16, 2018, honors the 232nd anniversary of the enactment of the Virginia Statute for Religious Freedom; and

(2) affirms that—

(A) for individuals of any faith and individuals of no faith, religious freedom includes the right of an individual to live, work, associate, and worship in accordance with the beliefs of the individual;

(B) all people of the United States can be unified in supporting religious freedom, regardless of differing individual beliefs, because religious freedom is a fundamental human right; and

(C) ''the American people will remain forever unshackled in matters of faith'', as expressed by the 44th President of the United States in a Presidential proclamation on Religious Freedom Day in 2012.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1875. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table.

SA 1876. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1877. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1878. Mrs. FEINSTEIN (for herself, Ms. HARRIS, Mr. LEAHY, and Mr. LEE) submitted an amendment intended to be proposed by her to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1879. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1880. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1881. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1882. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1883. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1884. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1885. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1886. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1887. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1888. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, supra; which was ordered to lie on the table.

SA 1889. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1890. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1891. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1892. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1893. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1894. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to

be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1895. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1896. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1897. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1898. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1899. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1900. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1901. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1902. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1875. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike line 1 and all that follows through page 7, line 16, and insert the following:

''(2) REQUIREMENTS FOR ACCESS AND DISSEMINATION OF COLLECTIONS OF COMMUNICATIONS.—

''(A) COURT ORDERS.—

''(i) IN GENERAL.—Except as provided under subparagraph (C), in response to a query relating to a United States person or a person reasonably believed to be located in the United States, the contents of queried communications acquired under subsection (a) may be accessed or disseminated only if—

''(I) the Attorney General submits to the Foreign Intelligence Surveillance Court an application that demonstrates that—

''(aa) there is probable cause to believe that—

''(AA) such contents provide evidence of a crime specified in section 2516 of title 18, United States Code; or

''(BB) the individual is an agent of a foreign power; and

''(bb) any use of such communications pursuant to section 706 will be carried out in accordance with such section; and

''(II) a judge of the Foreign Intelligence Surveillance Court reviews and approves such application under clause (ii).

''(ii) ORDER.—

''(I) APPROVAL.—Upon an application made under clause (i), the Foreign Intelligence Surveillance Court shall enter an order as requested or as modified by the Court approving the access or dissemination of contents of communications covered by the application if the Court determines that, based on an independent review—

''(aa) the application contains all information required under clause (i);

''(bb) on the basis of the facts in the application, there is probable cause to believe that—

''(AA) such contents provide evidence of a crime specified in section 2516 of title 18, United States Code; or

''(BB) the person identified by the queried term is an agent of a foreign power; and

''(cc) the minimization procedures adopted pursuant to subsection (e) will ensure compliance with clause (i)(I)(bb).

''(II) REVIEW.—A denial of an application submitted under clause (i) may be reviewed as provided in section 103.

''(B) EXPEDITIOUS CONSIDERATION.—Any application submitted under subparagraph (A)(i) shall be considered by the Foreign Intelligence Surveillance Court expeditiously and without delay.

''(C) EXCEPTIONS.—The requirement for an order pursuant to subparagraph (A) shall not apply to accessing or disseminating communications acquired under subsection (a) if—

''(i) the Attorney General determines that the person identified by the queried term is the subject of an order based upon a finding of probable cause, or emergency authorization, that authorizes electronic surveillance or physical search under this Act or title 18, United States Code (other than such emergency authorizations under title IV of this Act or section 3125 of title 18, United States Code);

''(ii) the Attorney General—

''(I) reasonably determines that an emergency situation requires the accessing or dissemination of the communications before an order pursuant to subparagraph (A) authorizing such access or dissemination can with due diligence be obtained;

''(II) reasonably believes that the factual basis for the issuance of such an order exists; and

''(III) with respect to the access or dissemination of the contents of such communications—

''(aa) informs the Court at the time the Attorney General requires the emergency access or dissemination that the decision has been made to employ the authority under this clause; and

''(bb) may not use the contents of such communications pursuant to section 706 if the Court finds that the determination by the Attorney General with respect to the emergency situation was not appropriate; or

''(iii) there is consent provided in accordance with subparagraph (D).

''(D) CONSENT.—The requirements of this paragraph do not apply with respect to—

''(i) queries made using a term identifying a person who is a party to the communications acquired under subsection (a), or a person who otherwise has lawful authority to provide consent, and who consents to such queries; or

''(ii) the accessing or the dissemination of the contents or information of communications acquired under subsection (a) of a person who is a party to the communications, or a person who otherwise has lawful authority to provide consent, and who consents to such access or dissemination.

SA 1876. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Uniting and Strengthening American Liberty Act of 2017'' or the ''USA Liberty Act of 2017''.

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

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE AND ACCOUNTABILITY

SEC. 101. COURT ORDERS AND PROTECTION OF INCIDENTALLY COLLECTED UNITED STATES PERSON COMMUNICATIONS.

(a) IN GENERAL.—Section 702 (50 U.S.C. 1881a) is amended—

(1) by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively; and

(2) by inserting after subsection (i) the following:

''(j) REQUIREMENTS FOR ACCESS AND DISSEMINATION OF COLLECTIONS OF COMMUNICATIONS.—

''(1) COURT ORDERS.—

''(A) IN GENERAL.—Except as provided under paragraph (3), in response to a query relating to a United States person or a person reasonably believed to be located in the United States, the contents of queried communications acquired under subsection (a) may be accessed or disseminated only if—

''(i) the Attorney General submits to the Foreign Intelligence Surveillance Court an application that demonstrates that—

''(I) there is probable cause to believe that—

''(aa) such contents provide evidence of a crime specified in section 2516 of title 18, United States Code; or

''(bb) the individual is an agent of a foreign power; and

''(II) any use of such communications pursuant to section 706 will be carried out in accordance with such section; and

''(ii) a judge of the Foreign Intelligence Surveillance Court reviews and approves such application under subparagraph (B).

''(B) ORDER.—

''(i) APPROVAL.—Upon an application made under subparagraph (A), the Foreign Intelligence Surveillance Court shall enter an order as requested or as modified by the Court approving the access or dissemination of contents of communications covered by the application if the Court determines that, based on an independent review—

''(I) the application contains all information required under subparagraph (A);

''(II) on the basis of the facts in the application, there is probable cause to believe that—

''(aa) such contents provide evidence of a crime specified in section 2516 of title 18, United States Code; or

''(bb) the person identified by the queried term is an agent of a foreign power; and

''(III) the minimization procedures adopted pursuant to subsection (e) will ensure compliance with subparagraph (A)(i)(II).

''(ii) REVIEW.—A denial of an application submitted under subparagraph (A) may be reviewed as provided in section 103.

''(2) EXPEDITIOUS CONSIDERATION.—Any application submitted under paragraph (1)(A) shall be considered by the Foreign Intelligence Surveillance Court expeditiously and without delay.

''(3) EXCEPTIONS.—The requirement for an order pursuant to paragraph (1) shall not apply to accessing or disseminating communications acquired under subsection (a) if—

''(A) the Attorney General determines that the person identified by the queried term is the subject of an order based upon a finding of probable cause, or emergency authorization, that authorizes electronic surveillance or physical search under this Act or title 18, United States Code (other than such emergency authorizations under title IV of this Act or section 3125 of title 18, United States Code);

''(B) the Attorney General—

''(i) reasonably determines that an emergency situation requires the accessing or dissemination of the communications before an order pursuant to paragraph (1) authorizing such access or dissemination can with due diligence be obtained;

''(ii) reasonably believes that the factual basis for the issuance of such an order exists; and

''(iii) with respect to the access or dissemination of the contents of such communications—

''(I) informs the Court at the time the Attorney General requires the emergency access or dissemination that the decision has been made to employ the authority under this paragraph; and

''(II) may not use the contents of such communications pursuant to section 706 if the Court finds that the determination by the Attorney General with respect to the emergency situation was not appropriate; or

''(C) there is consent provided in accordance with paragraph (12).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 404(b)(4) of the Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008 (50 U.S.C. 1801 note) is amended by striking ''702(l)'' each place it appears and inserting ''702(m)''.

SEC. 102. ATTORNEY GENERAL APPROVAL AND ADDITIONAL PROTECTION OF INCIDENTALLY COLLECTED UNITED STATES PERSON COMMUNICATIONS.

Subsection (j) of section 702 (50 U.S.C. 1881a), as added by section 101, is amended by inserting after paragraph (3) the following:

''(4) RELEVANCE AND APPROVAL TO ACCESS NONCONTENTS INFORMATION.—Except as provided under paragraph (5), in response to a query relating to a United States person or a person reasonably believed to be located in the United States, the information of communications acquired under subsection (a) relating to dialing, routing, addressing, or signaling information that is not content and could otherwise be lawfully obtained under title IV of this Act may be accessed or disseminated only—

''(A) with the approval of the Attorney General;

''(B) if such information is relevant to an authorized investigation or assessment and is not sought solely on the basis of activities protected by the First Amendment to the Constitution of the United States;

''(C) if an order based on probable cause would not be required by law to obtain such information if requested as part of an investigation of a Federal crime; and

''(D) if any use of such communications pursuant to section 706 will be carried out in accordance with such section.

''(5) EXCEPTIONS.—The requirement for approval of the Attorney General under paragraph (4)(A) shall not apply to accessing or disseminating information of communications acquired under subsection (a) relating to dialing, routing, addressing, or signaling information that is not content and could otherwise be lawfully obtained under title IV of this Act if—

''(A) the Attorney General determines that the person identified by the queried term is the subject of an order based upon a finding of probable cause, or emergency authorization, that authorizes electronic surveillance or physical search under this Act or title 18, United States Code (other than such emergency authorizations under title IV of this Act or section 3125 of title 18, United States Code);

''(B) a supervisory determination is obtained that—

''(i) reasonably determines that an emergency situation requires the accessing or dissemination of the information of communications before the approval of the Attorney General under paragraph (4)(A) can with due diligence be obtained;

''(ii) reasonably believes that the factual basis for the approval of the Attorney General under paragraph (4)(A) exists; and

''(iii) with respect to the access or dissemination of such information of communications—

''(I) informs the Attorney General at the time the supervisor requires the emergency access or dissemination that the decision has been made to employ the authority under this subparagraph; and

''(II) may not use such information of communications pursuant to section 706 if the Attorney General finds that the determination by the supervisor with respect to the emergency situation was not appropriate; or

''(C) there is consent provided in accordance with paragraph (12).

''(6) DUE DILIGENCE.—A determination of whether the person identified by the queried term is a United States person or a person reasonably believed to be located in the United States under paragraph (1) or (4) shall be made based on the totality of the circumstances, including by, to the extent practicable, ensuring that any conflicting information regarding whether the person is a United States person or is reasonably believed to be located outside the United States is resolved before making such determination. If there is insufficient information available to make a determination, the person identified by the queried term shall be considered a United States person or person reasonably believed to be located in the United States for purposes of paragraphs (1) and (4).

''(7) LIMITATION ON ELECTRONIC SURVEILLANCE OF UNITED STATES PERSONS.—If the Attorney General determines that it is necessary to conduct electronic surveillance on a known United States person whose communications have been acquired under subsection (a), the Attorney General may only conduct such electronic surveillance using authority provided under other provisions of law.

''(8) SIMULTANEOUS QUERY OF FBI DATABASES.—Except as otherwise provided by law or applicable minimization procedures, the Director of the Federal Bureau of Investigation shall ensure that all available investigative or intelligence databases of the Federal Bureau of Investigation are simultaneously queried when the Federal Bureau of Investigation properly uses an information system of the Federal Bureau of Investigation to determine whether information exists in such a database.

''(9) DELEGATION.—The Attorney General shall delegate the authority under this subsection to the fewest number of officials that the Attorney General determines practicable.

''(10) RETENTION OF AUDITABLE RECORDS.—

''(A) RECORDS.—The Attorney General shall retain records of queries of a collection of communications acquired under subsection (a). The heads of elements of the intelligence community that are not components of the Department of Justice shall retain records of queries of a collection of communications acquired under subsection (a) that use a term identifying a United States person or a person located in the United States.

''(B) REQUIREMENTS.—Records retained under subparagraph (A) shall—

''(i) include queries for not less than 5 years after the date on which the query is made; and

''(ii) be maintained in a manner that is auditable and available for congressional oversight.

''(11) COMPLIANCE AND MAINTENANCE.—The requirements of this subsection do not apply with respect to queries made for the purpose of—

''(A) submitting to Congress information required by this Act or otherwise ensuring compliance with the requirements of this section; or

''(B) performing maintenance or testing of information systems.

''(12) CONSENT.—The requirements of this subsection do not apply with respect to—

''(A) queries made using a term identifying a person who is a party to the communications acquired under subsection (a), or a person who otherwise has lawful authority to provide consent, and who consents to such queries; or

''(B) the accessing or the dissemination of the contents or information of communications acquired under subsection (a) of a person who is a party to the communications, or a person who otherwise has lawful authority to provide consent, and who consents to such access or dissemination.

''(13) QUERY PURPOSES.—The contents of communications acquired under subsection (a) and the information relating to the dialing, routing, addressing, or signaling information of such communications may only be queried if the query is reasonably designed to return foreign intelligence information or evidence of a crime.''.

SEC. 103. LIMITATION ON COLLECTION AND IMPROVEMENTS TO TARGETING PROCEDURES AND MINIMIZATION PROCEDURES.

(a) TARGETING PROCEDURES; LIMITATION ON COLLECTION.—Section 702(d) (50 U.S.C. 1881a(d)) is amended—

(1) in paragraph (1), by striking ''The Attorney General'' and inserting ''In accordance with paragraphs (3) and (4), the Attorney General''; and

(2) by adding at the end the following new paragraphs:

''(3) DUE DILIGENCE.—The procedures adopted in accordance with paragraph (1) shall require due diligence in determining whether a person targeted is a non-United States person reasonably believed to be located outside the United States by—

''(A) making the determination based on the totality of the circumstances, including by, to the extent practicable, ensuring that any conflicting information regarding whether the person is reasonably believed to be located outside the United States or is a United States person is resolved before making such determination;

''(B) documenting the processes used for determinations described in subparagraph (A); and

''(C) documenting the rationale for why targeting such person will result in the acquisition of foreign intelligence information authorized by subsection (a).

''(4) LIMITATION.—

''(A) IN GENERAL.—The procedures adopted in accordance with paragraph (1) shall require that the targeting of a person is limited to communications to or from the targeted person.

''(B) ANNUAL REPORT.—On an annual basis, the Attorney General shall submit to the congressional intelligence committees and the Committees on the Judiciary of the House of Representatives and the Senate a report on—

''(i) any difficulty relating to the limitation under subparagraph (A); and

''(ii) the technical feasibility of ensuring that the handling of communications acquired under subsection (a) with respect to incidentally collected United States person information complies with the minimization procedures adopted under subsection (e).''.

(b) MINIMIZATION PROCEDURES.—Section 702(e) (50 U.S.C. 1881a(e)) is amended—

(1) in paragraph (1), by inserting '', and the requirements of this subsection'' before the period at the end; and

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

''(3) REQUESTS TO UNMASK INFORMATION.—The procedures adopted under paragraph (1) shall include specific procedures adopted by the Attorney General for elements of the intelligence community to submit requests to unmask information in disseminated intelligence reports. Such specific procedures shall—

''(A) require the documentation of the requesting individual that such request is for legitimate reasons authorized pursuant to paragraph (1); and

''(B) require the retention of the records of each request, including—

''(i) a copy of the request;

''(ii) the name and position of the individual who is making the request; and

''(iii) if the request is approved, the name and position of the individual who approved the request and the date of the approval.''.

(c) UNMASK DEFINED.—Section 701(b) (50 U.S.C. 1881(b)) is amended by adding at the end the following new paragraph:

''(6) UNMASK.—The term 'unmask' means, with respect to a disseminated intelligence report containing a reference to a United States person that does not identify that person (including by name or title), to disseminate the identity of the United States person, including the name or title of the person.''.

(d) CONSISTENT REQUIREMENTS TO RETAIN RECORDS ON REQUESTS TO UNMASK INFORMATION.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended as follows:

(1) In section 101(h) (50 U.S.C. 1801(h))—

(A) in paragraph (3), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

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

''(5) specific procedures as described in section 702(e)(3).''.

(2) In section 301(4) (50 U.S.C. 1821(4))—

(A) in subparagraph (C), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(E) specific procedures as described in section 702(e)(3).''.

(3) In section 402(h) (50 U.S.C. 1842(h))—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph (2):

''(2) REQUESTS FOR NONPUBLICLY AVAILABLE INFORMATION.—The policies and procedures adopted under paragraph (1) shall include specific procedures as described in section 702(e)(3).''.

(4) In section 501(g)(2) (50 U.S.C. 1861(g)(2))—

(A) in subparagraph (B), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) specific procedures as described in section 702(e)(3).''.

(e) REPORT ON UNMASKING.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate a report on the progress made by the Director with respect to—

(1) ensuring that incidentally collected communications of United States persons (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) are properly masked if masking is necessary; and

(2) implementing procedures for requests to unmask information under section 702(e)(3) of such Act (50 U.S.C. 1881a(e)(3)), as added by subsection (c).

SEC. 104. PUBLICATION OF MINIMIZATION PROCEDURES UNDER SECTION 702.

Section 702(e) (50 U.S.C. 1881a(e)), as amended by section 103, is further amended by adding at the end the following:

''(4) PUBLICATION.—The Director of National Intelligence, in consultation with the Attorney General, shall—

''(A) conduct a declassification review of any minimization procedures adopted or amended in accordance with paragraph (1); and

''(B) consistent with such review, and not later than 180 days after conducting such review, make such minimization procedures publicly available to the greatest extent practicable, which may be in redacted form.''.

SEC. 105. APPOINTMENT OF AMICUS CURIAE FOR ANNUAL CERTIFICATIONS.

Section 103(i) (50 U.S.C. 1803(i)(2)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) shall appoint an individual who has been designated under paragraph (1) to serve as amicus curiae to assist such court in the review of a certification under section 702(i), unless the court issues a finding that such appointment is not necessary; and''; and

(2) in paragraphs (4) and (5), by striking ''paragraph (2)(A)'' both places it appears and inserting ''subparagraph (A) or (B) of paragraph (2)''.

SEC. 106. INCREASED ACCOUNTABILITY ON INCIDENTALLY COLLECTED COMMUNICATIONS.

Section 707 (50 U.S.C. 1881f) is amended by adding at the end the following new subsection:

''(c) INCIDENTALLY COLLECTED COMMUNICATIONS AND OTHER INFORMATION.—Together with the semiannual report submitted under subsection (a), the Director of National Intelligence shall submit to the congressional committees specified in such subsection a report on incidentally collected communications and other information regarding United States persons under section 702. Each such report shall include, with respect to the 6-month period covered by the report, the following:

''(1) Except as provided by paragraph (2), the number, or a good faith estimate, of communications of United States persons acquired under subsection (a) of such section, including a description of any efforts of the intelligence community to ascertain such number or good faith estimate.

''(2) If the Director determines that the number, or a good faith estimate, under paragraph (1) is not achievable, a detailed explanation for why such number or good faith estimate is not achievable.

''(3) The number of—

''(A) United States persons whose information is unmasked pursuant to the procedures adopted under subsection (e)(3) of such section;

''(B) requests made by an element of the intelligence community, listed by each such element, to unmask information pursuant to such subsection; and

''(C) requests that resulted in the dissemination of names, titles, or other identifiers potentially associated with individuals pursuant to such subsection, including the element of the intelligence community and position of the individual making the request.

''(4) The number of disseminations of communications acquired under subsection (a) of section 702 to the Federal Bureau of Investigation for cases unrelated to foreign intelligence.

''(5) The number of instances in which evidence of a crime unrelated to foreign intelligence that was identified in communications acquired under subsection (a) of section 702 was disseminated from the national security branch of the Bureau to the criminal investigative division of the Bureau (or from such successor branch to such successor division).

''(6) The number of individuals to whom the Attorney General has delegated authority pursuant to subsection (j)(2)(G) of section 702.''.

SEC. 107. SEMIANNUAL REPORTS ON CERTAIN QUERIES BY FEDERAL BUREAU OF INVESTIGATION.

Section 707 (50 U.S.C. 1881f), as amended by section 106, is further amended by adding at the end the following new subsection:

''(d) SEMIANNUAL FBI REPORTS.—Together with the semiannual report submitted under subsection (a), the Director of the Federal Bureau of Investigation shall submit to the congressional committees specified in such subsection, and make publicly available, a report containing, with respect to the period covered by the report—

''(1) the number of applications made by the Federal Bureau of Investigation described in subsection (j)(1)(A) of section 702;

''(2) the number of such applications that were approved and resulted in the contents of communications being accessed or disseminated pursuant to such subsection; and

''(3) the number of Attorney General approvals made pursuant to subsection (j)(4)(A) of such section.''.

SEC. 108. ADDITIONAL REPORTING REQUIREMENTS.

(a) ELECTRONIC SURVEILLANCE.—Section 107 (50 U.S.C. 1807) is amended to read as follows:

''SEC. 107. REPORT OF ELECTRONIC SURVEILLANCE.

''(a) ANNUAL REPORT.—In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

''(1) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title;

''(2) the total number of such orders and extensions either granted, modified, or denied; and

''(3) the total number of persons who were subject to electronic surveillance conducted under an order or emergency authorization under this title, rounded to the nearest 500, including the number of such individuals who are United States persons, reported to the nearest band of 500, starting with 0–499.

''(b) FORM.—Each report under subsection (a) shall be submitted in unclassified form. Not later than 7 days after the date on which the Attorney General submits each such report, the Attorney General shall make the report publicly available.''.

(b) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 406 (50 U.S.C. 1846) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

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

''(6) a good faith estimate of the total number of subjects who were targeted by the installation and use of a pen register or trap and trace device under an order or emergency authorization issued under this title, rounded to the nearest 500, including—

''(A) the number of such subjects who are United States persons, reported to the nearest band of 500, starting with 0–499; and

''(B) of the number of United States persons described in subparagraph (A), the number of persons whose information acquired pursuant to such order was reviewed or accessed by a Federal officer, employee, or agent, reported to the nearest band of 500, starting with 0–499.''; and

(2) by adding at the end the following new subsection:

''(c) Each report under subsection (b) shall be submitted in unclassified form. Not later than 7 days after the date on which the Attorney General submits such a report, the Attorney General shall make such report publicly available.''.

SEC. 109. APPLICATION OF CERTAIN AMENDMENTS.

The amendments made by sections 101, 102, and 103 of this Act shall apply with respect to applications, certifications, and procedures submitted to the Foreign Intelligence Surveillance Court on or after the date that is 120 days after the date of the enactment of this Act.

SEC. 110. SENSE OF CONGRESS ON PURPOSE OF SECTION 702 AND RESPECTING FOREIGN NATIONALS.

It is the sense of Congress that—

(1) the acquisition of communications by the National Security Agency under section 702 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1881a) should be conducted within the bounds of treaties and agreements to which the United States is a party, and there should be no targeting of non-United States persons for any unfounded discriminatory purpose or for the purpose of affording a commercial competitive advantage to companies and business sectors of the United States; and

(2) the authority to collect intelligence under such section 702 is meant to shield the United States, and by extension, the allies of the United States, from security threats.

TITLE II—SAFEGUARDS AND OVERSIGHT OF PRIVACY AND CIVIL LIBERTIES

SEC. 201. LIMITATION ON RETENTION OF CERTAIN DATA.

Subsection (m) of section 702 (50 U.S.C. 1881a), as redesignated by section 101, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) AFFIDAVIT ON DELETION INCLUDED IN SEMIANNUAL ASSESSMENT TO FISC AND CONGRESS.—Each semiannual assessment under paragraph (1) shall include, with respect to the 6-month period covered by the assessment, an affidavit by the Director of the National Security Agency, without delegation, that communications acquired under subsection (a) determined not to contain foreign intelligence information, if any, were deleted.''.

SEC. 202. IMPROVEMENTS TO PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) APPOINTMENT OF STAFF.—Subsection (j) of section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

''(2) APPOINTMENT IN ABSENCE OF CHAIRMAN.—If the position of chairman of the Board is vacant, during the period of the vacancy, the Board, at the direction of the unanimous vote of the serving members of the Board, may exercise the authority of the chairman under paragraph (1).''.

(b) MEETINGS.—Subsection (f) of such section (42 U.S.C. 2000ee(f)) is amended—

(1) by striking ''The Board shall'' and inserting ''The Board'';

(2) in paragraph (1) by striking ''make its'' and inserting ''shall make its''; and

(3) in paragraph (2)—

(A) by striking ''hold public'' and inserting ''shall hold public''; and

(B) by inserting before the period at the end the following: '', but may, notwithstanding section 552b of title 5, United States Code, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public''.

(c) REPORT ON SECTION 702 AND TERRORISM.—Not later than 1 year after the date on which the Privacy and Civil Liberties Oversight Board first achieves a quorum following the date of the enactment of this Act, the Board shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report assessing—

(1) how communications acquired under section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a) are used by the United States to prevent or defend against terrorism;

(2) whether technological challenges and changes in technology affect the prevention of and defense against terrorism, and how effectively the foreign intelligence elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) have responded to those challenges; and

(3) how privacy and civil liberties are affected by the actions identified under paragraph (1) and the changes in technology identified under paragraph (2), and whether race, religion, political affiliation, or activities protected by the First Amendment to the Constitution of the United States are determinative in the targeting or querying decisions made pursuant to such section 702.

SEC. 203. PRIVACY AND CIVIL LIBERTIES OFFICERS.

(a) CODIFICATION OF CERTAIN OFFICERS.—Section 1062(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee–1(a)) is amended in the matter preceding paragraph (1) by inserting '', the Director of the National Security Agency, the Director of the Federal Bureau of Investigation'' after ''the Director of the Central Intelligence Agency''.

(b) ANNUAL REPORTS ON INCIDENTAL COMMUNICATIONS OF UNITED STATES PERSONS.—Paragraph (4)(A) of subsection (m) of section 702 (50 U.S.C. 1881a), as redesignated by sections 101 and 201, is amended—

(1) in clause (iii), by striking ''; and'' and inserting a semicolon;

(2) in clause (iv), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new clause:

''(v) a review by the privacy and civil liberties officer of the element of incidentally collected communications of United States persons to assess compliance with the minimization procedures adopted under subsection (e) and the effect of this section on the privacy of United States persons.''.

SEC. 204. WHISTLEBLOWER PROTECTIONS FOR CONTRACTORS OF THE INTELLIGENCE COMMUNITY.

(a) PROHIBITED PERSONNEL PRACTICES IN THE INTELLIGENCE COMMUNITY.—Section 1104 of the National Security Act of 1947 (50 U.S.C. 3234) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following:

''(2) CONTRACTOR EMPLOYEE.—The term 'contractor employee' means an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor of a covered intelligence community element.''; and

(C) in paragraph (4), as so redesignated, in the matter preceding subparagraph (A) by inserting ''or a contractor employee of a covered intelligence community element'' after ''character)'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following new subsection (c):

''(c) CONTRACTOR EMPLOYEES.—(1) A contractor employee or employee of a covered intelligence community element who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any contractor employee as a reprisal for a lawful disclosure of information by the contractor employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, the head of the contracting agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the contracting agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the contractor employee reasonably believes evidences—

''(A) a violation of any Federal law, rule, or regulation (including with respect to evidence of another employee or contractor employee accessing or sharing classified information without authorization); or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

''(2) A personnel action under paragraph (1) is prohibited even if the action is undertaken at the request of an officer or employee of the applicable covered intelligence community element, unless the request takes the form of a nondiscretionary directive and is within the authority of the officer or employee making the request.

''(3) A contractor employee may raise a violation of paragraph (1) in any proceeding to implement or challenge a personnel action described in such paragraph.'';

(4) in subsection (b), by striking the heading and inserting ''AGENCY EMPLOYEES.—''; and

(5) in subsection (e)(1), as redesignated by paragraph (2), by inserting ''contractor employee,'' after ''any employee,''.

(b) FEDERAL BUREAU OF INVESTIGATION.—

(1) IN GENERAL.—Any contractor employee or employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to a contractor employee as a reprisal for a disclosure of information—

(A) made—

(i) to a supervisor in the direct chain of command of the contractor employee, up to and including the Director of the Federal Bureau of Investigation;

(ii) to the Inspector General of the Department of Justice;

(iii) to the Office of Professional Responsibility of the Department of Justice;

(iv) to the Office of Professional Responsibility of the Federal Bureau of Investigation;

(v) to the Inspection Division of the Federal Bureau of Investigation;

(vi) as described in section 7211 of title 5, United States Code;

(vii) to the Office of Special Counsel; or

(viii) to an employee designated by any officer, employee, office, or division described in clauses (i) through (vii) for the purpose of receiving such disclosures; and

(B) which the contractor employee reasonably believes evidences—

(i) any violation of any law, rule, or regulation (including with respect to evidence of another employee or contractor employee accessing or sharing classified information without authorization); or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) ACTIONS BY REQUEST.—A personnel action under paragraph (1) is prohibited even if the action is undertaken at the request of an officer or employee of the Federal Bureau of Investigation, unless the request takes the form of a nondiscretionary directive and is within the authority of the officer or employee making the request.

(3) VIOLATION.—A contractor employee may raise a violation of paragraph (1) in any proceeding to implement or challenge a personnel action described in such paragraph.

(4) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action described in paragraph (1) shall not be taken against a contractor employee of the Bureau as a reprisal for any disclosure of information described in such paragraph.

(5) ENFORCEMENT.—The President shall provide for the enforcement of this subsection in a manner consistent with applicable provisions of sections 1214 and 1221 of title 5, United States Code.

(6) DEFINITIONS.—In this subsection:

(A) The term ''contractor employee'' means an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of the Federal Bureau of Investigation.

(B) The term ''personnel action'' means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of title 5, United States Code, with respect to a contractor employee.

(c) RETALIATORY REVOCATION OF SECURITY CLEARANCES AND ACCESS DETERMINATIONS.—Section 3001(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341(j)) is amended by adding at the end the following new paragraph:

''(8) INCLUSION OF CONTRACTOR EMPLOYEES.—In this subsection, the term 'employee' includes an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of an agency. With respect to such employees, the term 'employing agency' shall be deemed to be the contracting agency.''.

TITLE III—EXTENSION OF AUTHORITIES, INCREASED PENALTIES, REPORTS, AND OTHER MATTERS

SEC. 301. EXTENSION OF TITLE VII OF FISA; EFFECTIVE DATES.

(a) EXTENSION.—Section 403(b) of the FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2474) is amended—

(1) in paragraph (1)—

(A) by striking ''December 31, 2017'' and inserting ''September 30, 2023''; and

(B) by inserting ''and by the USA Liberty Act of 2017'' after ''section 101(a)''; and

(2) in paragraph (2) in the matter preceding subparagraph (A), by striking ''December 31, 2017'' and inserting ''September 30, 2023''.

(b) CONFORMING AMENDMENTS.—Section 404(b) of the FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2476) is amended—

(1) in paragraph (1)—

(A) in the heading, by striking ''DECEMBER 31, 2017'' and inserting ''SEPTEMBER 30, 2023''; and

(B) by inserting ''and by the USA Liberty Act of 2017'' after ''section 101(a)'';

(2) in paragraph (2), by inserting ''and by the USA Liberty Act of 2017'' after ''section 101(a)''; and

(3) in paragraph (4)—

(A) by inserting ''and amended by the USA Liberty Act of 2017'' after ''as added by section 101(a)'' both places it appears; and

(B) by inserting ''and by the USA Liberty Act of 2017'' after ''as amended by section 101(a)'' both places it appears.

(c) EFFECTIVE DATE OF AMENDMENTS TO FAA.—The amendments made to the FISA Amendments Act of 2008 (Public Law 110–261) by this section shall take effect on the earlier of the date of the enactment of this Act or December 31, 2017.

SEC. 302. INCREASED PENALTY FOR UNAUTHORIZED REMOVAL AND RETENTION OF CLASSIFIED DOCUMENTS OR MATERIAL.

Section 1924(a) of title 18, United States Code, is amended by striking ''one year'' and inserting ''5 years''.

SEC. 303. RULE OF CONSTRUCTION REGARDING CRIMINAL PENALTIES FOR UNAUTHORIZED USE OF INFORMATION ACQUIRED UNDER SECTION 702 AND UNAUTHORIZED DISCLOSURE OF UNITED STATES PERSON INFORMATION.

Nothing in this Act or the amendments made by this Act may be construed to limit the application or effect of criminal penalties under section 552a(i) of title 5, United States Code, sections 1001, 1030, and 1924 of title 18, United States Code, or any other relevant provision of law, with respect to offenses relating to the unauthorized access or use of information acquired under section 702 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1881a) or the unauthorized disclosure of United States person information acquired under such section.

SEC. 304. COMPTROLLER GENERAL STUDY ON UNAUTHORIZED DISCLOSURES AND THE CLASSIFICATION SYSTEM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the unauthorized disclosure of classified information and the classification system of the United States.

(b) MATTERS INCLUDED.—The study under subsection (a) shall address the following:

(1) Insider threat risks to the unauthorized disclosure of classified information.

(2) The effect of modern technology on the unauthorized disclosure of classified information, including with respect to—

(A) using cloud storage for classified information; and

(B) any technological means to prevent or detect such unauthorized disclosure.

(3) The effect of overclassification on the unauthorized disclosure of classified information.

(4) Any ways to improve the classification system of the United States, including with respect to changing the levels of classification used in such system and to reduce overclassification.

(5) How to improve the authorized sharing of classified information, including with respect to sensitive compartmented information.

(6) The value of polygraph tests in determining who is authorized to access classified information.

(7) Whether each element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)))—

(A) applies uniform standards in determining who is authorized to access classified information; and

(B) provides proper training with respect to the handling of classified information and the avoidance of overclassification.

(c) COOPERATION.—The heads of the intelligence community shall provide to the Comptroller General information the Comptroller General determines necessary to carry out the study under subsection (a).

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the study under subsection (a).

(e) FORM.—The report under subsection (d) shall be submitted in unclassified form, but may include a classified annex.

SEC. 305. SENSE OF CONGRESS ON INFORMATION SHARING AMONG INTELLIGENCE COMMUNITY TO PROTECT NATIONAL SECURITY.

It is the sense of Congress that, in carrying out section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by this Act, the United States Government should ensure that the barriers, whether real or perceived, to sharing critical foreign intelligence among the intelligence community that existed before September 11, 2001, are not reimposed by sharing information vital to national security among the intelligence community in a manner that is consistent with such section, applicable provisions of law, and the Constitution of the United States.

SEC. 306. SENSE OF CONGRESS ON COMBATING TERRORISM.

It is the sense of Congress that, consistent with the protection of sources and methods, when lawful and appropriate, the President should share information learned by acquiring communications under section 702 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1881a) with allies of the United States to prevent and defend against terrorism.

SEC. 307. TECHNICAL AMENDMENTS AND AMENDMENTS TO IMPROVE PROCEDURES OF THE FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.

(a) TECHNICAL AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended as follows:

(1) In section 103(b) (50 U.S.C. 1803(b)), by striking ''designate as the'' and inserting ''designated as the''.

(2) In section 302(a)(1)(A)(iii) (50 U.S.C. 1822(a)(1)(A)(iii)), by striking ''paragraphs (1) through (4)'' and inserting ''subparagraphs (A) through (D)''.

(3) In section 406(b) (50 U.S.C. 1846(b)), by striking ''and to the Committees on the Judiciary of the House of Representatives and the Senate''.

(4) In section 604(a) (50 U.S.C. 1874(a))—

(A) in paragraph (1)(D), by striking ''contents'' and inserting ''contents,''; and

(B) in paragraph (3), by striking ''comply in the into'' and inserting ''comply into''.

(5) In section 701 (50 U.S.C. 1881)—

(A) in subsection (a), by striking ''The terms'' and inserting ''In this title, the terms''; and

(B) in subsection (b)—

(i) by inserting ''In this title:'' after the subsection heading; and

(ii) in paragraph (5), by striking ''(50 U.S.C. 401a(4))'' and inserting ''(50 U.S.C. 3003(4))''.

(6) In section 702(g)(2)(A)(i) (50 U.S.C. 1881a(g)(2)(A)(i)), by inserting ''targeting'' before ''procedures in place''.

(7) In section 801(7) (50 U.S.C. 1885(7)), by striking ''(50 U.S.C. 401a(4))'' and inserting ''(50 U.S.C. 3003(4))''.

(b) COURT-RELATED AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended as follows:

(1) In section 103 (50 U.S.C. 1803)—

(A) in subsection (b), by striking ''immediately''; and

(B) in subsection (h), by striking ''the court established under subsection (a)'' and inserting ''a court established under this section''.

(2) In section 105(d) (50 U.S.C. 1805(d)), by adding at the end the following new paragraph:

''(4) A denial of the application made under section 104 may be reviewed as provided in section 103.''.

(3) In section 302(d) (50 U.S.C. 1822(d)), by striking ''immediately''.

(4) In section 402(d) (50 U.S.C. 1842(d)), by adding at the end the following new paragraph:

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

(5) In section 403(c) (50 U.S.C. 1843(c)), by adding at the end the following new paragraph:

''(3) A denial of the application made under subsection (a)(2) may be reviewed as provided in section 103.''.

(6) In section 501(c) (50 U.S.C. 1861(c)), by adding at the end the following new paragraph:

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

SEC. 308. 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, of any such amendments, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

SEC. 309. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to authorize the acquisition, querying, retention, dissemination, or use of information not previously authorized under the FISA Amendments Act of 2008 or the amendments made by that Act.

SA 1877. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, strike line 13 and all that follows through page 27, line 23 and insert the following:

SEC. 103. LIMITATION ON COLLECTION AND IMPROVEMENTS TO TARGETING PROCEDURES AND MINIMIZATION PROCEDURES.

(a) TARGETING PROCEDURES; LIMITATION ON COLLECTION.—Section 702(d) (50 U.S.C. 1881a(d)) is amended—

(1) in paragraph (1), by striking ''The Attorney General'' and inserting ''In accordance with paragraphs (3) and (4), the Attorney General''; and

(2) by adding at the end the following new paragraphs:

''(3) DUE DILIGENCE.—The procedures adopted in accordance with paragraph (1) shall require due diligence in determining whether a person targeted is a non-United States person reasonably believed to be located outside the United States by—

''(A) making the determination based on the totality of the circumstances, including by, to the extent practicable, ensuring that any conflicting information regarding whether the person is reasonably believed to be located outside the United States or is a United States person is resolved before making such determination;

''(B) documenting the processes used for determinations described in subparagraph (A); and

''(C) documenting the rationale for why targeting such person will result in the acquisition of foreign intelligence information authorized by subsection (a).

''(4) LIMITATION.—

''(A) IN GENERAL.—The procedures adopted in accordance with paragraph (1) shall require that the targeting of a person is limited to communications to or from the targeted person.

''(B) ANNUAL REPORT.—On an annual basis, the Attorney General shall submit to the congressional intelligence committees and the Committees on the Judiciary of the House of Representatives and the Senate a report on—

''(i) any difficulty relating to the limitation under subparagraph (A); and

''(ii) the technical feasibility of ensuring that the handling of communications acquired under subsection (a) with respect to incidentally collected United States person information complies with the minimization procedures adopted under subsection (e).''.

(b) MINIMIZATION PROCEDURES.—Section 702(e) (50 U.S.C. 1881a(e)) is amended—

(1) in paragraph (1), by inserting '', and the requirements of this subsection'' before the period at the end; and

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

''(3) REQUESTS TO UNMASK INFORMATION.—The procedures adopted under paragraph (1) shall include specific procedures adopted by the Attorney General for elements of the intelligence community to submit requests to unmask information in disseminated intelligence reports. Such specific procedures shall—

''(A) require the documentation of the requesting individual that such request is for legitimate reasons authorized pursuant to paragraph (1); and

''(B) require the retention of the records of each request, including—

''(i) a copy of the request;

''(ii) the name and position of the individual who is making the request; and

''(iii) if the request is approved, the name and position of the individual who approved the request and the date of the approval.''.

(c) UNMASK DEFINED.—Section 701(b) (50 U.S.C. 1881(b)) is amended by adding at the end the following new paragraph:

''(6) UNMASK.—The term 'unmask' means, with respect to a disseminated intelligence report containing a reference to a United States person that does not identify that person (including by name or title), to disseminate the identity of the United States person, including the name or title of the person.''.

(d) CONSISTENT REQUIREMENTS TO RETAIN RECORDS ON REQUESTS TO UNMASK INFORMATION.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended as follows:

(1) In section 101(h) (50 U.S.C. 1801(h))—

(A) in paragraph (3), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

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

''(5) specific procedures as described in section 702(e)(3).''.

(2) In section 301(4) (50 U.S.C. 1821(4))—

(A) in subparagraph (C), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(E) specific procedures as described in section 702(e)(3).''.

(3) In section 402(h) (50 U.S.C. 1842(h))—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph (2):

''(2) REQUESTS FOR NONPUBLICLY AVAILABLE INFORMATION.—The policies and procedures adopted under paragraph (1) shall include specific procedures as described in section 702(e)(3).''.

(4) In section 501(g)(2) (50 U.S.C. 1861(g)(2))—

(A) in subparagraph (B), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) specific procedures as described in section 702(e)(3).''.

(e) REPORT ON UNMASKING.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate a report on the progress made by the Director with respect to—

(1) ensuring that incidentally collected communications of United States persons (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) are properly masked if masking is necessary; and

(2) implementing procedures for requests to unmask information under section 702(e)(3) of such Act (50 U.S.C. 1881a(e)(3)), as added by subsection (c).

SA 1878. Mrs. FEINSTEIN (for herself, Ms. HARRIS, Mr. LEAHY, and Mr. LEE) submitted an amendment intended to be proposed by her to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 4, strike line 1 and all that follows through page 7, line 16, and insert the following:

''(2) REQUIREMENTS FOR ACCESS TO COMMUNICATIONS OF UNITED STATES PERSONS.—

''(A) COURT ORDERS.—Except as provided under subparagraph (C), in response to a query relating to a United States person, the contents of queried communications acquired under subsection (a) may be accessed only if—

''(i) the Attorney General submits to the Foreign Intelligence Surveillance Court an application that demonstrates that there is probable cause to believe that—

''(I) such contents may relate to a crime a specified in section 2516 of title 18, United States Code; or

''(II) the individual is the agent of a foreign power; and

''(ii) a judge of the Foreign Intelligence Surveillance Court reviews and approves such application.

''(B) EXPEDITIOUS CONSIDERATION.—Any application under subparagraph (A) shall be considered by the Foreign Intelligence Surveillance Court expeditiously and without delay.

''(C) EXCEPTION.—If the Attorney General determines that exigent circumstances require access to contents before an order can be obtained, the Attorney General may access such contents without an order for a maximum period of 7 days.

''(D) REPORTING.—Not less frequently than once every 6 months, the Attorney General shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the number of times the Attorney General has made a determination under subparagraph (C) in the previous 6 months.

On page 15, strike lines 20 through 23.

On page 42, line 15, strike ''Federal Bureau of Investigation'' and insert ''Attorney General''.

SA 1879. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GROUNDS FOR DETERMINING INJURY IN FACT IN CIVIL ACTION RELATING TO SURVEILLANCE UNDER CERTAIN PROVISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 (50 U.S.C. 1881a), as amended by section 101, is further amended by adding at the end the following:

''(n) CHALLENGES TO GOVERNMENT SURVEILLANCE.—

''(1) INJURY IN FACT.—In any claim in a civil action brought in a court of the United States relating to surveillance conducted under this section, the person asserting the claim has suffered an injury in fact if the person—

''(A) has a reasonable basis to believe that the person's communications will be acquired under this section; and

''(B) has taken objectively reasonable steps to avoid surveillance under this section.

''(2) REASONABLE BASIS.—A person shall be presumed to have demonstrated a reasonable basis to believe that the communications of the person will be acquired under this section if the profession of the person requires the person regularly to communicate foreign intelligence information with persons who—

''(A) are not United States persons; and

''(B) are located outside the United States.

''(3) OBJECTIVE STEPS.—A person shall be presumed to have taken objectively reasonable steps to avoid surveillance under this section if the person demonstrates that the steps were taken in reasonable response to rules of professional conduct or analogous professional rules.''.

SA 1880. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike line 8 and all that follows through page 17, line 11, and insert the following:

(a) LIMITATION ON USE OF INFORMATION OBTAINED UNDER CERTAIN AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO UNITED STATES PERSONS.—Section 706(a) (50 U.S.C. 1881e(a)) is amended—

(1) by striking ''Information acquired'' and inserting the following:

''(1) IN GENERAL.—Information acquired''; and

(2) by adding at the end the following:

''(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No communication to or from, or information about, a person acquired under section 702 who is either a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

''(A) with the prior approval of the Attorney General; and

''(B) in a proceeding or investigation in which the information is directly related to and necessary to address a specific threat of—

''(i) terrorism (as defined in clauses (i) through (iii) of section 2332(g)(5)(B) of title 18, United States Code);

''(ii) espionage (as used in chapter 37 of title 18, United States Code);

''(iii) proliferation or use of a weapon of mass destruction (as defined in section 2332a(c) of title 18, United States Code);

''(iv) a cybersecurity threat from a foreign country;

''(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or

''(vi) a threat to the armed forces of the United States or an ally of the United States

or to other personnel of the United States Government or a government of an ally of the United States.''.

SA 1881. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 2, strike line 14 and all that follows through page 15, line 6, and insert the following:

SEC. 101. CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting such subparagraphs, as so redesignated, an additional two ems from the left margin;

(2) by striking ''An acquisition'' and inserting the following:

''(1) IN GENERAL.—An acquisition''; and

(3) by adding at the end the following:

''(2) CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a query of information acquired under this section in an effort to find communications of or about a particular United States person or a person inside the United States.

''(B) CONCURRENT AUTHORIZATION AND EXCEPTION FOR EMERGENCY SITUATIONS.—Subparagraph (A) shall not apply to a query for communications related to a particular United States person or person inside the United States if—

''(i) such United States person or person inside the United States is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105, 304, 703, 704, or 705 of this Act, or under title 18, United States Code, for the effective period of that order;

''(ii) the entity carrying out the query has a reasonable belief that the life or safety of such United States person or person inside the United States is threatened and the information is sought for the purpose of assisting that person;

''(iii) such United States person or person in the United States is a corporation; or

''(iv) such United States person or person inside the United States has consented to the query.

''(C) QUERIES OF FEDERATED DATA SETS AND MIXED DATA.—If an officer or employee of the United States conducts a query of a data set, or of federated data sets, that includes any information acquired under this section, the system shall be configured not to return such information unless the officer or employee enters a code or other information indicating that—

''(i) the person associated with the search term is not a United States person or person inside the United States; or

''(ii) if the person associated with the search term is a United States person or person inside the United States, one or more of the conditions of subparagraph (B) are satisfied.

''(D) MATTERS RELATING TO EMERGENCY QUERIES.—

''(i) TREATMENT OF DENIALS.—In the event that a query for communications related to a particular United States person or a person inside the United States is conducted pursuant to an emergency authorization authorizing electronic surveillance or a physical search described in subsection (B)(i) and the application for such emergency authorization is denied, or in any other case in which the query has been conducted and no order is issued approving the query—

''(I) no information obtained or evidence derived from such query may 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

''(II) no information concerning any United States person acquired from such query may 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) ASSESSMENT OF COMPLIANCE.—The Attorney General shall assess compliance with the requirements under clause (i).''.

SA 1882. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 24, add the following:

SEC. 206. REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 603(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by striking ''(A) FEDERAL BUREAU'' and all that follows through ''Paragraph (3)(B) of'' and inserting ''Paragraph (3)(B)''.

SA 1883. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 6 through 22 and insert the following:

SEC. 111. CLARIFICATION REGARDING TREATMENT OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) DERIVED DEFINED.—

(1) IN GENERAL.—Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended by adding at the end the following:

''(q) For the purposes of notification provisions of this Act, information or evidence is 'derived' from an electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition under this Act when the Government would not have originally possessed the information or evidence but for that electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition, and regardless of any claim that the information or evidence is attenuated from the surveillance or search, would inevitably have been discovered, or was subsequently reobtained through other means.''.

(2) POLICIES AND GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Director of National Intelligence shall publish the following:

(i) Policies concerning the application of subsection (q) of section 101 of such Act, as added by paragraph (1).

(ii) Guidance for all members of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) and all Federal agencies with law enforcement responsibilities concerning the application of such subsection.

(B) MODIFICATIONS.—Whenever the Attorney General and the Director modify a policy or guidance published under subparagraph (A), the Attorney General and the Director shall publish such modifications.

(b) USE OF INFORMATION ACQUIRED UNDER TITLE VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking '', except for the purposes of subsection (j) of such section''; and

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

''(b) INFORMATION ACQUIRED UNDER SECTIONS 703–705.—Information acquired from an acquisition conducted under section 703, 704, or 705 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for the purposes of section 106.''.

SA 1884. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 32, strike line 16 and all that follows through page 33, line 21, and insert the following:

SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) INCLUSION OF FOREIGN INTELLIGENCE ACTIVITIES IN OVERSIGHT AUTHORITY OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee) is amended—

(1) in subsection (c), by inserting ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears; and

(2) in subsection (d), ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears.

(b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

(1) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by subsection (a), is further amended—

(A) in subsection (d), by adding at the end the following:

''(5) WHISTLEBLOWER COMPLAINTS.—

''(A) SUBMISSION TO BOARD.—An employee of, or contractor or detailee to, an element of the intelligence community may submit to the Board a complaint or information that such employee, contractor, or detailee believes relates to a privacy or civil liberties concern. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

''(B) AUTHORITY OF BOARD.—The Board may take such action as the Board considers appropriate with respect to investigating a complaint or information submitted under subparagraph (A) or transmitting such complaint or information to any other Executive agency or the congressional intelligence committees.

''(C) RELATIONSHIP TO EXISTING LAWS.—The authority under subparagraph (A) of an employee, contractor, or detailee to submit to the Board a complaint or information shall be in addition to any other authority under another provision of law to submit a complaint or information. Any action taken under any other provision of law by the recipient of a complaint or information shall not preclude the Board from taking action relating to the same complaint or information.

''(D) RELATIONSHIP TO ACTIONS TAKEN UNDER OTHER LAWS.—Nothing in this paragraph shall prevent—

''(i) any individual from submitting a complaint or information to any authorized recipient of the complaint or information; or

''(ii) the recipient of a complaint or information from taking independent action on the complaint or information.''; and

(B) by adding at the end the following:

''(n) DEFINITIONS.—In this section, the terms 'congressional intelligence committees' and 'intelligence community' have the meanings given such terms in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).''.

(2) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended, in the matter preceding clause (i), by striking ''or to the Inspector of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command (up to and including the head of the employing agency), the Privacy and Civil Liberties Oversight Board, or an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(c) PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD SUBPOENA POWER.—Section 1061(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is amended—

(1) in paragraph (1)(D), by striking ''submit a written request to the Attorney General of the United States that the Attorney General'';

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(d) APPOINTMENT OF STAFF OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) APPOINTMENT IN ABSENCE OF CHAIRMAN.—If the position of chairman of the Board is vacant, during the period of the vacancy the Board, at the direction of the majority of the members of the Board, may exercise the authority of the chairman under paragraph (1).''.

(e) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—

(1) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by subsections (a) and (b), is further amended—

(A) in subsection (h)—

(i) in paragraph (1), by inserting ''full-time'' after ''4 additional''; and

(ii) in paragraph (4)(B), by striking '', except that'' and all that follows through the end and inserting a period;

(B) in subsection (i)(1)—

(i) in subparagraph (A), by striking ''level III of the Executive Schedule under section 5314'' and inserting ''level II of the Executive Schedule under section 5313''; and

(ii) in subparagraph (B), by striking ''level IV of the Executive Schedule'' and all that follows through the end and inserting ''level III of the Executive Schedule under section 5314 of title 5, United States Code.''; and

(C) in subsection (j)(1), by striking ''level V of the Executive Schedule under section 5316'' and inserting ''level IV of the Executive Schedule under section 5315''.

(2) EFFECTIVE DATE; APPLICABILITY.—

(A) IN GENERAL.—The amendments made by paragraph (1)—

(i) shall take effect on the date of the enactment of this Act; and

(ii) except as provided in paragraph (2), shall apply to any appointment to a position as a member of the Privacy and Civil Liberties Oversight Board made on or after the date of the enactment of this Act.

(B) EXCEPTIONS.—

(i) COMPENSATION CHANGES.—The amendments made by subparagraphs (B)(i) and (C) of paragraph (1) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(ii) ELECTION TO SERVE FULL TIME BY INCUMBENTS.—

(I) IN GENERAL.—An individual serving as a member of the Privacy and Civil Liberties Oversight Board on the date of the enactment of this Act, including a member continuing to serve as a member under section 1061(h)(4)(B) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(h)(4)(B)), (referred to in this clause as a ''current member'') may make an election to—

(aa) serve as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis and in accordance with section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by this section; or

(bb) serve as a member of the Privacy and Civil Liberties Oversight Board on a part-time basis in accordance with such section 1061, as in effect on the day before the date of the enactment of this Act, including the limitation on service after the expiration of the term of the member under subsection (h)(4)(B) of such section, as in effect on the day before the date of the enactment of this Act.

(II) ELECTION TO SERVE FULL TIME.—A current member making an election under subclause (I)(aa) shall begin serving as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis on the first day of the first pay period beginning not less than 60 days after the date on which the current member makes such election.

(f) MEETINGS.—Subsection (f) of such section is amended—

(1) by striking ''The Board shall'' and inserting ''The Board'';

(2) in paragraph (1) by striking ''make its'' and inserting ''shall make its''; and

(3) in paragraph (2)—

(A) by striking ''hold public'' and inserting ''shall hold public''; and

(B) by inserting before the period at the end the following: '', but may, notwithstanding section 552b of title 5, United States Code, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public''.

(g) PROVISION OF INFORMATION ABOUT GOVERNMENT ACTIVITIES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—The Attorney General shall fully inform the Privacy and Civil Liberties Oversight Board about any activities carried out by the Government under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), including by providing to the Board—

(1) copies of each detailed report submitted to a committee of Congress under such Act; and

(2) copies of each decision, order, and opinion of the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review required to be included in the report under section 601(a) of such Act (50 U.S.C. 1871(a)).

SA 1885. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 24, add the following:

SEC. 206. REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 603(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by striking ''(A) FEDERAL BUREAU'' and all that follows through ''Paragraph (3)(B) of'' and inserting ''Paragraph (3)(B)''.

SA 1886. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. LIMITATION ON TECHNICAL ASSISTANCE FROM ELECTRONIC COMMUNICATION SERVICE PROVIDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(i)(1)), as redesignated by section 101(a)(1)(A), is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses 2 ems to the right;

(2) by striking ''With respect to'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), in carrying out''; and

(3) by adding at the end the following:

''(B) LIMITATIONS.—The Attorney General or the Director of National Intelligence may not request assistance from an electronic communication service provider under subparagraph (A) without demonstrating, to the satisfaction of the Court, that the assistance sought—

''(i) is necessary;

''(ii) is narrowly tailored to the surveillance at issue; and

''(iii) would not pose an undue burden on the electronic communication service provider or its customers who are not an intended target of the surveillance.

''(C) COMPLIANCE.—An electronic communication service provider is not obligated to comply with a directive to provide assistance under this paragraph unless—

''(i) such assistance is a manner or method that has been explicitly approved by the Court; and

''(ii) the Court issues an order, which has been delivered to the provider, explicitly describing the assistance to be furnished by the provider that has been approved by the Court.''.

SA 1887. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 6 through 22 and insert the following:

SEC. 111. CLARIFICATION REGARDING TREATMENT OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) DERIVED DEFINED.—

(1) IN GENERAL.—Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended by adding at the end the following:

''(q) For the purposes of notification provisions of this Act, information or evidence is 'derived' from an electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition under this Act when the Government would not have originally possessed the information or evidence but for that electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition, and regardless of any claim that the information or evidence is attenuated from the surveillance or search, would inevitably have been discovered, or was subsequently reobtained through other means.''.

(2) POLICIES AND GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Director of National Intelligence shall publish the following:

(i) Policies concerning the application of subsection (q) of section 101 of such Act, as added by paragraph (1).

(ii) Guidance for all members of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) and all Federal agencies with law enforcement responsibilities concerning the application of such subsection.

(B) MODIFICATIONS.—Whenever the Attorney General and the Director modify a policy or guidance published under subparagraph (A), the Attorney General and the Director shall publish such modifications.

(b) USE OF INFORMATION ACQUIRED UNDER TITLE VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking '', except for the purposes of subsection (j) of such section''; and

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

''(b) INFORMATION ACQUIRED UNDER SECTIONS 703–705.—Information acquired from an acquisition conducted under section 703, 704, or 705 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for the purposes of section 106.''.

SA 1888. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike line 8 and all that follows through page 17, line 11, and insert the following:

(a) LIMITATION ON USE OF INFORMATION OBTAINED UNDER CERTAIN AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO UNITED STATES PERSONS.—Section 706(a) (50 U.S.C. 1881e(a)) is amended—

(1) by striking ''Information acquired'' and inserting the following:

''(1) IN GENERAL.—Information acquired''; and

(2) by adding at the end the following:

''(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No communication to or from, or information about, a person acquired under section 702 who is either a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

''(A) with the prior approval of the Attorney General; and

''(B) in a proceeding or investigation in which the information is directly related to and necessary to address a specific threat of—

''(i) terrorism (as defined in clauses (i) through (iii) of section 2332(g)(5)(B) of title 18, United States Code);

''(ii) espionage (as used in chapter 37 of title 18, United States Code);

''(iii) proliferation or use of a weapon of mass destruction (as defined in section 2332a(c) of title 18, United States Code);

''(iv) a cybersecurity threat from a foreign country;

''(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or

''(vi) a threat to the armed forces of the United States or an ally of the United States or to other personnel of the United States Government or a government of an ally of the United States.''.

SA 1889. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Uniting and Strengthening America by Reforming and Improving the Government's High-Tech Surveillance Act of 2017'' or the ''USA RIGHTS Act of 2017''.

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

SEC. 2. CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting such subparagraphs, as so redesignated, an additional two ems from the left margin;

(2) by striking ''An acquisition'' and inserting the following:

''(1) IN GENERAL.—An acquisition''; and

(3) by adding at the end the following:

''(2) CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a query of information acquired under this section in an effort to find communications of or about a particular United States person or a person inside the United States.

''(B) CONCURRENT AUTHORIZATION AND EXCEPTION FOR EMERGENCY SITUATIONS.—Subparagraph (A) shall not apply to a query for communications related to a particular United States person or person inside the United States if—

''(i) such United States person or person inside the United States is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105, 304, 703, 704, or 705 of this Act, or under title 18, United States Code, for the effective period of that order;

''(ii) the entity carrying out the query has a reasonable belief that the life or safety of such United States person or person inside the United States is threatened and the information is sought for the purpose of assisting that person;

''(iii) such United States person or person in the United States is a corporation; or

''(iv) such United States person or person inside the United States has consented to the query.

''(C) QUERIES OF FEDERATED DATA SETS AND MIXED DATA.—If an officer or employee of the United States conducts a query of a data set, or of federated data sets, that includes any information acquired under this section, the system shall be configured not to return such information unless the officer or employee enters a code or other information indicating that—

''(i) the person associated with the search term is not a United States person or person inside the United States; or

''(ii) if the person associated with the search term is a United States person or person inside the United States, one or more of the conditions of subparagraph (B) are satisfied.

''(D) MATTERS RELATING TO EMERGENCY QUERIES.—

''(i) TREATMENT OF DENIALS.—In the event that a query for communications related to a particular United States person or a person inside the United States is conducted pursuant to an emergency authorization authorizing electronic surveillance or a physical search described in subsection (B)(i) and the application for such emergency authorization is denied, or in any other case in which the query has been conducted and no order is issued approving the query—

''(I) no information obtained or evidence derived from such query may 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

''(II) no information concerning any United States person acquired from such query may 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) ASSESSMENT OF COMPLIANCE.—The Attorney General shall assess compliance with the requirements under clause (i).''.

SEC. 3. PROHIBITION ON REVERSE TARGETING UNDER CERTAIN AUTHORITIES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by section 2, is further amended—

(1) in subsection (b)(1)(B), as redesignated by section 2, by striking ''the purpose of such acquisition is to target'' and inserting ''a significant purpose of such acquisition is to acquire the communications of'';

(2) in subsection (d)(1)(A)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(i) that''; and

(B) by adding at the end the following:

''(ii) 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; and'';

(3) in subsection (g)(2)(A)(i)(I)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(aa) that''; and

(B) by adding at the end the following:

''(bb) 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; and''; and

(4) in subsection (i)(2)(B)(i)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(I) that''; and

(B) by adding at the end the following:

''(II) 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; and''.

SEC. 4. PROHIBITION ON ACQUISITION, PURSUANT TO CERTAIN FISA AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES, OF COMMUNICATIONS THAT DO NOT INCLUDE PERSONS TARGETED UNDER SUCH AUTHORITIES.

Section 702(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 2, is amended—

(1) in subparagraph (D), as redesignated by section 2, by striking ''; and'' and inserting a semicolon;

(2) by redesignating subparagraph (E) as subparagraph (G); and

(3) by inserting after subparagraph (D) the following:

''(E) may not acquire a communication as to which no participant is a person who is targeted pursuant to the authorized acquisition;''.

SEC. 5. PROHIBITION ON ACQUISITION OF ENTIRELY DOMESTIC COMMUNICATIONS UNDER AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES.

Section 702(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 2 and amended by section 4, is further amended by inserting after subparagraph (E), as added by section 4, the following:

''(F) may not acquire communications known to be entirely domestic; and''.

SEC. 6. LIMITATION ON USE OF INFORMATION OBTAINED UNDER CERTAIN AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO UNITED STATES PERSONS.

Section 706(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881e(a)) is amended—

(1) by striking ''Information acquired'' and inserting the following:

''(1) IN GENERAL.—Information acquired''; and

(2) by adding at the end the following:

''(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No communication to or from, or information about, a person acquired under section 702 who is either a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

''(A) with the prior approval of the Attorney General; and

''(B) in a proceeding or investigation in which the information is directly related to and necessary to address a specific threat of—

''(i) terrorism (as defined in clauses (i) through (iii) of section 2332(g)(5)(B) of title 18, United States Code);

''(ii) espionage (as used in chapter 37 of title 18, United States Code);

''(iii) proliferation or use of a weapon of mass destruction (as defined in section 2332a(c) of title 18, United States Code);

''(iv) a cybersecurity threat from a foreign country;

''(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or

''(vi) a threat to the armed forces of the United States or an ally of the United States or to other personnel of the United States Government or a government of an ally of the United States.''.

SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) INCLUSION OF FOREIGN INTELLIGENCE ACTIVITIES IN OVERSIGHT AUTHORITY OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee) is amended—

(1) in subsection (c), by inserting ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears; and

(2) in subsection (d), ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears.

(b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

(1) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by subsection (a), is further amended—

(A) in subsection (d), by adding at the end the following:

''(5) WHISTLEBLOWER COMPLAINTS.—

''(A) SUBMISSION TO BOARD.—An employee of, or contractor or detailee to, an element of the intelligence community may submit to the Board a complaint or information that such employee, contractor, or detailee believes relates to a privacy or civil liberties concern. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

''(B) AUTHORITY OF BOARD.—The Board may take such action as the Board considers appropriate with respect to investigating a complaint or information submitted under subparagraph (A) or transmitting such complaint or information to any other Executive agency or the congressional intelligence committees.

''(C) RELATIONSHIP TO EXISTING LAWS.—The authority under subparagraph (A) of an employee, contractor, or detailee to submit to the Board a complaint or information shall be in addition to any other authority under another provision of law to submit a complaint or information. Any action taken under any other provision of law by the recipient of a complaint or information shall not preclude the Board from taking action relating to the same complaint or information.

''(D) RELATIONSHIP TO ACTIONS TAKEN UNDER OTHER LAWS.—Nothing in this paragraph shall prevent—

''(i) any individual from submitting a complaint or information to any authorized recipient of the complaint or information; or

''(ii) the recipient of a complaint or information from taking independent action on the complaint or information.''; and

(B) by adding at the end the following:

''(n) DEFINITIONS.—In this section, the terms 'congressional intelligence committees' and 'intelligence community' have the meanings given such terms in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).''.

(2) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended, in the matter preceding clause (i), by striking ''or to the Inspector of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command (up to and including the head of the employing agency), the Privacy and Civil Liberties Oversight Board, or an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(c) PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD SUBPOENA POWER.—Section 1061(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is amended—

(1) in paragraph (1)(D), by striking ''submit a written request to the Attorney General of the United States that the Attorney General'';

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(d) APPOINTMENT OF STAFF OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) APPOINTMENT IN ABSENCE OF CHAIRMAN.—If the position of chairman of the Board is vacant, during the period of the vacancy the Board, at the direction of the majority of the members of the Board, may exercise the authority of the chairman under paragraph (1).''.

(e) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—

(1) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by subsections (a) and (b), is further amended—

(A) in subsection (h)—

(i) in paragraph (1), by inserting ''full-time'' after ''4 additional''; and

(ii) in paragraph (4)(B), by striking '', except that'' and all that follows through the end and inserting a period;

(B) in subsection (i)(1)—

(i) in subparagraph (A), by striking ''level III of the Executive Schedule under section 5314'' and inserting ''level II of the Executive Schedule under section 5313''; and

(ii) in subparagraph (B), by striking ''level IV of the Executive Schedule'' and all that follows through the end and inserting ''level III of the Executive Schedule under section 5314 of title 5, United States Code.''; and

(C) in subsection (j)(1), by striking ''level V of the Executive Schedule under section 5316'' and inserting ''level IV of the Executive Schedule under section 5315''.

(2) EFFECTIVE DATE; APPLICABILITY.—

(A) IN GENERAL.—The amendments made by paragraph (1)—

(i) shall take effect on the date of the enactment of this Act; and

(ii) except as provided in paragraph (2), shall apply to any appointment to a position as a member of the Privacy and Civil Liberties Oversight Board made on or after the date of the enactment of this Act.

(B) EXCEPTIONS.—

(i) COMPENSATION CHANGES.—The amendments made by subparagraphs (B)(i) and (C) of paragraph (1) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(ii) ELECTION TO SERVE FULL TIME BY INCUMBENTS.—

(I) IN GENERAL.—An individual serving as a member of the Privacy and Civil Liberties Oversight Board on the date of the enactment of this Act, including a member continuing to serve as a member under section 1061(h)(4)(B) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(h)(4)(B)), (referred to in this clause as a ''current member'') may make an election to—

(aa) serve as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis and in accordance with section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by this section; or

(bb) serve as a member of the Privacy and Civil Liberties Oversight Board on a part-time basis in accordance with such section 1061, as in effect on the day before the date of the enactment of this Act, including the limitation on service after the expiration of the term of the member under subsection (h)(4)(B) of such section, as in effect on the day before the date of the enactment of this Act.

(II) ELECTION TO SERVE FULL TIME.—A current member making an election under subclause (I)(aa) shall begin serving as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis on the first day of the first pay period beginning not less than 60 days after the date on which the current member makes such election.

(f) PROVISION OF INFORMATION ABOUT GOVERNMENT ACTIVITIES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—The Attorney General shall fully inform the Privacy and Civil Liberties Oversight Board about any activities carried out by the Government under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), including by providing to the Board—

(1) copies of each detailed report submitted to a committee of Congress under such Act; and

(2) copies of each decision, order, and opinion of the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review required to be included in the report under section 601(a) of such Act (50 U.S.C. 1871(a)).

SEC. 8. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

(1) IN GENERAL.—Section 103(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(i)(1)) is amended by adding at the end the following: ''Any amicus curiae designated pursuant to this paragraph may raise any issue with the Court at any time.''.

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) REFERRAL FOR REVIEW.—

''(A) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

''(B) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any

other individual designated under paragraph (1) may refer the decision to the court established under subsection (b) for review as the Court considers appropriate.

''(C) REFERRAL TO SUPREME COURT.—If the Court of Review appoints an amicus curiae under paragraph (2) to assist the Court of Review in the review of any matter presented to the Court of Review under this Act or a question of law that may affect resolution of a matter in controversy and the Court of Review makes a decision with respect to such matter or question of law, the Court of Review, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the Supreme Court for review as the Court of Review considers appropriate.

''(D) ANNUAL REPORT.—Not later than 60 days after the end of each calendar year, the Court and the Court of Review shall each publish, on their respective Internet websites, a report listing—

''(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

''(ii) the number of such applications for referral that were granted by the Court or the Court of Review, as applicable, during such calendar year.''.

(3) ASSISTANCE.—Section 103(i)(6) of such Act, as redesignated, is further amended to read as follows:

''(6) ASSISTANCE.—Any individual designated pursuant to paragraph (1) may raise a legal or technical issue or any other issue with the Court or the Court of Review at any time. If an amicus curiae is appointed under paragraph (2)(A)—

''(A) the court shall notify all other amicus curiae designated under paragraph (1) of such appointment;

''(B) the appointed amicus curiae may request, either directly or through the court, the assistance of the other amici curiae designated under paragraph (1); and

''(C) all amici curiae designated under paragraph (1) may provide input to the court whether or not such input was formally requested by the court or the appointed amicus curiae.''.

(4) ACCESS TO INFORMATION.—Section 103(i)(7) of such Act, as redesignated, is further amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''that the court'' and inserting the following: ''that—

''(I) the court''; and

(II) by striking ''and'' at the end and inserting the following: ''or

''(II) are cited by the Government in an application or case with respect to which an amicus curiae is assisting a court under this subsection;'';

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) shall have access to an unredacted copy of each decision made by a court established under subsection (a) or (b) in which the court decides a question of law, notwithstanding whether the decision is classified; and'';

(B) in subparagraph (B), by striking ''may'' and inserting ''shall''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''CLASSIFIED INFORMATION'' and inserting ''ACCESS TO INFORMATION''; and

(ii) by striking ''court may have access'' and inserting the following: ''court—

''(i) shall have access to unredacted copies of each opinion, order, transcript, pleading, or other document of the Court and the Court of Review; and

''(ii) may have access''.

(5) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:

''(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Whenever a court established under subsection (a) or (b) considers a novel a question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

''(A) by publishing on its Internet website each question of law that the court is considering; and

''(B) by accepting briefs from third parties relating to the question under consideration by the court.''.

(b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.—

(1) IN GENERAL.—Section 702(i)(2) of such Act (50 U.S.C. 1881a(i)(2)) is amended—

(A) in subparagraph (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the indentation of the margin of such subclauses, as so redesignated, two ems to the right;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the indentation of the margin of such clauses, as so redesignated, two ems to the right;

(C) by inserting before clause (i), as redesignated by subparagraph (B), the following:

''(A) IN GENERAL.—''; and

(D) by adding at the end the following:

''(B) PARTICIPATION BY AMICI CURIAE.—In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.''.

(2) SCHEDULE.—Section 702(i)(5)(A) of such Act is amended by striking ''at least 30 days prior to the expiration of such authorization'' and inserting ''such number of days before the expiration of such authorization as the Court considers necessary to comply with the requirements of paragraph (2)(B) or 30 days, whichever is greater''.

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—

(1) by striking ''Following'' and inserting the following:

''(1) IN GENERAL.—Following''; and

(2) by adding at the end the following:

''(2) PUBLIC NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), whenever a court established under subsection (a) certifies a question of law for review under paragraph (1) of this subsection, the court shall publish on its Internet website—

''(i) a notice of the question of law to be reviewed; and

''(ii) briefs submitted by the parties, which may be redacted at the discretion of the court to protect sources, methods, and other classified information.

''(B) PROTECTION OF CLASSIFIED INFORMATION, SOURCES, AND METHODS.—Subparagraph (A) shall apply to the greatest extent practicable, consistent with otherwise applicable law on the protection of classified information, sources, and methods.''.

SEC. 9. REFORMS TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) FISA COURT JUDGES.—

(1) NUMBER AND DESIGNATION OF JUDGES.—Section 103(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)(1)) is amended to read as follows:

''(1)(A) There is a court which shall have jurisdiction to hear applications for and to grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this Act.

''(B)(i) The court established under subparagraph (A) shall consist of 13 judges, one of whom shall be designated from each judicial circuit (including the United States Court of Appeals for the District of Columbia and the United States Court of Appeals for the Federal Circuit).

''(ii) The Chief Justice of the United States shall—

''(I) designate each judge of the court established under subparagraph (A) from the nominations made under subparagraph (C); and

''(II) make the name of each judge of such court available to the public.

''(C)(i) When a vacancy occurs in the position of a judge of the court established under subparagraph (A) from a judicial circuit, the chief judge of the circuit shall propose a district judge for a judicial district within the judicial circuit to be designated for that position.

''(ii) If the Chief Justice does not designate a district judge proposed under clause (i), the chief judge shall propose 2 other district judges for a judicial district within the judicial circuit to be designated for that position and the Chief Justice shall designate 1 such district judge to that position.

''(D) No judge of the court established under subparagraph (A) (except when sitting en banc under paragraph (2)) shall hear the same application for electronic surveillance under this Act which has been denied previously by another judge of such court.

''(E) If any judge of the court established under subparagraph (A) denies an application for an order authorizing electronic surveillance under this Act, such judge shall provide immediately for the record a written statement of each reason for the judge's decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b).''.

(2) TENURE.—Section 103(d) of such Act is amended by striking ''redesignation,'' and all that follows through the end and inserting ''redesignation.''.

(3) IMPLEMENTATION.—

(A) INCUMBENTS.—A district judge designated to serve on the court established under subsection (a) of such section before the date of enactment of this Act may continue to serve in that position until the end of the term of the district judge under subsection (d) of such section, as in effect on the day before the date of the enactment of this Act.

(B) INITIAL APPOINTMENT AND TERM.—Notwithstanding any provision of such section, as amended by paragraphs (1) and (2), and not later than 180 days after the date of enactment of this Act, the Chief Justice of the United States shall—

(i) designate a district court judge who is serving in a judicial district within the District of Columbia circuit and proposed by the chief judge of such circuit to be a judge of the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) for an initial term of 7 years; and

(ii) designate a district court judge who is serving in a judicial district within the Federal circuit and proposed by the chief judge of such circuit to be a judge of such court for an initial term of 4 years.

(b) COURT OF REVIEW.—Section 103(b) of such Act is amended—

(1) by striking ''The Chief Justice'' and inserting ''(1) Subject to paragraph (2), the Chief Justice''; and

(2) by adding at the end the following:

''(2) The Chief Justice may designate a district court judge or circuit court judge to a position on the court established under paragraph (1) only if at least 5 associate justices approve the designation of such individual.''.

SEC. 10. STUDY AND REPORT ON DIVERSITY AND REPRESENTATION ON THE FISA COURT AND THE FISA COURT OF REVIEW.

(a) STUDY.—The Committee on Intercircuit Assignments of the Judicial Conference of the United States shall conduct a study on how to ensure judges are appointed to the court established under subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) and the court established under subsection (b) of such section in a manner that ensures such courts are diverse and representative.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Committee on Intercircuit Assignments shall submit to Congress a report on the study carried out under subsection (a).

SEC. 11. GROUNDS FOR DETERMINING INJURY IN FACT IN CIVIL ACTION RELATING TO SURVEILLANCE UNDER CERTAIN PROVISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by sections 2, 3, 4, 5, and 8(b), is further amended by adding at the end the following:

''(m) CHALLENGES TO GOVERNMENT SURVEILLANCE.—

''(1) INJURY IN FACT.—In any claim in a civil action brought in a court of the United States relating to surveillance conducted under this section, the person asserting the claim has suffered an injury in fact if the person—

''(A) has a reasonable basis to believe that the person's communications will be acquired under this section; and

''(B) has taken objectively reasonable steps to avoid surveillance under this section.

''(2) REASONABLE BASIS.—A person shall be presumed to have demonstrated a reasonable basis to believe that the communications of the person will be acquired under this section if the profession of the person requires the person regularly to communicate foreign intelligence information with persons who—

''(A) are not United States persons; and

''(B) are located outside the United States.

''(3) OBJECTIVE STEPS.—A person shall be presumed to have taken objectively reasonable steps to avoid surveillance under this section if the person demonstrates that the steps were taken in reasonable response to rules of professional conduct or analogous professional rules.''.

SEC. 12. CLARIFICATION OF APPLICABILITY OF REQUIREMENT TO DECLASSIFY SIGNIFICANT DECISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE COURT AND FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.

Section 602 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1872) shall apply with respect to decisions, orders, and opinions described in subsection (a) of such section that were issued on, before, or after the date of the enactment of the Uniting and Strengthening America by Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act of 2015 (Public Law 114–23).

SEC. 13. CLARIFICATION REGARDING TREATMENT OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) DERIVED DEFINED.—

(1) IN GENERAL.—Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended by adding at the end the following:

''(q) For the purposes of notification provisions of this Act, information or evidence is 'derived' from an electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition under this Act when the Government would not have originally possessed the information or evidence but for that electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition, and regardless of any claim that the information or evidence is attenuated from the surveillance or search, would inevitably have been discovered, or was subsequently reobtained through other means.''.

(2) POLICIES AND GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Director of National Intelligence shall publish the following:

(i) Policies concerning the application of subsection (q) of section 101 of such Act, as added by paragraph (1).

(ii) Guidance for all members of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) and all Federal agencies with law enforcement responsibilities concerning the application of such subsection.

(B) MODIFICATIONS.—Whenever the Attorney General and the Director modify a policy or guidance published under subparagraph (A), the Attorney General and the Director shall publish such modifications.

(b) USE OF INFORMATION ACQUIRED UNDER TITLE VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking '', except for the purposes of subsection (j) of such section''; and

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

''(b) INFORMATION ACQUIRED UNDER SECTIONS 703–705.—Information acquired from an acquisition conducted under section 703, 704, or 705 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for the purposes of section 106.''.

SEC. 14. LIMITATION ON TECHNICAL ASSISTANCE FROM ELECTRONIC COMMUNICATION SERVICE PROVIDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702(h)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(h)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses 2 ems to the right;

(2) by striking ''With respect to'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), in carrying out''; and

(3) by adding at the end the following:

''(B) LIMITATIONS.—The Attorney General or the Director of National Intelligence may not request assistance from an electronic communication service provider under subparagraph (A) without demonstrating, to the satisfaction of the Court, that the assistance sought—

''(i) is necessary;

''(ii) is narrowly tailored to the surveillance at issue; and

''(iii) would not pose an undue burden on the electronic communication service provider or its customers who are not an intended target of the surveillance.

''(C) COMPLIANCE.—An electronic communication service provider is not obligated to comply with a directive to provide assistance under this paragraph unless—

''(i) such assistance is a manner or method that has been explicitly approved by the Court; and

''(ii) the Court issues an order, which has been delivered to the provider, explicitly describing the assistance to be furnished by the provider that has been approved by the Court.''.

SEC. 15. MODIFICATION OF AUTHORITIES FOR PUBLIC REPORTING BY PERSONS SUBJECT TO NONDISCLOSURE REQUIREMENT ACCOMPANYING ORDER UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) MODIFICATION OF AGGREGATION BANDING.—Subsection (a) of section 604 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1874) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

''(1) A semiannual report that aggregates the number of orders, directives, or national security letters with which the person was required to comply into separate categories of—

''(A) the number of national security letters received, reported—

''(i) for the first 1000 national security letters received, in bands of 200 starting with 1–200; and

''(ii) for more than 1000 national security letters received, the precise number of national security letters received;

''(B) the number of customer selectors targeted by national security letters, reported—

''(i) for the first 1000 customer selectors targeted, in bands of 200 starting with 1–200; and

''(ii) for more than 1000 customer selectors targeted, the precise number of customer selectors targeted;

''(C) the number of orders or directives received, combined, under this Act for contents—

''(i) reported—

''(I) for the first 1000 orders and directives received, in bands of 200 starting with 1–200; and

''(II) for more than 1000 orders and directives received, the precise number of orders received; and

''(ii) disaggregated by whether the order or directive was issued under section 105, 402, 501, 702, 703, or 704;

''(D) the number of customer selectors targeted under orders or directives received, combined, under this Act for contents—

''(i) reported—

''(I) for the first 1000 customer selectors targeted, in bands of 200 starting with 1–200; and

''(II) for more than 1000 customer selectors targeted, the precise number of customer selectors targeted; and

''(ii) disaggregated by whether the order or directive was issued under section 105, 402, 501, 702, 703, or 704;

''(E) the number of orders or directives received under this Act for noncontents—

''(i) reported—

''(I) for the first 1000 orders or directives received, in bands of 200 starting with 1–200; and

''(II) for more than 1000 orders or directives received, the precise number of orders received; and

''(ii) disaggregated by whether the order or directive was issued under section 105, 402, 501, 702, 703, or 704; and

''(F) the number of customer selectors targeted under orders or directives under this Act for noncontents—

''(i) reported—

''(I) for the first 1000 customer selectors targeted, in bands of 200 starting with 1–200; and

''(II) for more than 1000 customer selectors targeted, the precise number of customer selectors targeted; and

''(ii) disaggregated by whether the order or directive was issued under section 105, 402, 501, 702, 703, or 704.''; and

(2) by redesignating paragraph (4) as paragraph (2).

(b) ADDITIONAL DISCLOSURES.—Such section is amended—

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

(2) by inserting after subsection (a) the following:

''(b) ADDITIONAL DISCLOSURES.—A person who publicly reports information under subsection (a) may also publicly report the following information, relating to the previous 180 days, using a semiannual report that indicates whether the person was or was not required to comply with an order, directive, or national security letter issued under each of sections 105, 402, 501, 702, 703, and 704 and the provisions listed in section 603(e)(3).''.

SEC. 16. ANNUAL PUBLICATION OF STATISTICS ON NUMBER OF PERSONS TARGETED OUTSIDE THE UNITED STATES UNDER CERTAIN FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 AUTHORITY.

Not less frequently than once each year, the Director of National Intelligence shall publish the following:

(1) A description of the subject matter of each of the certifications provided under subsection (g) of section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a) in the last calendar year.

(2) Statistics revealing the number of persons targeted in the last calendar year under subsection (a) of such section, disaggregated by certification under which the person was targeted.

SEC. 17. REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 603(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by striking ''(A) FEDERAL BUREAU'' and all that follows through ''Paragraph (3)(B) of'' and inserting ''Paragraph (3)(B)''.

SEC. 18. PUBLICATION OF ESTIMATES REGARDING COMMUNICATIONS COLLECTED UNDER CERTAIN PROVISION OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) IN GENERAL.—Except as provided in subsection (b), not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall publish an estimate of—

(1) the number of United States persons whose communications are collected under section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a); or

(2) the number of communications collected under such section to which a party is a person inside the United States.

(b) IN CASE OF TECHNICAL IMPOSSIBILITY.—If the Director determines that publishing an estimate pursuant to subsection (a) is not technically possible—

(1) subsection (a) shall not apply; and

(2) the Director shall publish an assessment in unclassified form explaining such determination, but may submit a classified annex to the appropriate committees of Congress as necessary.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003));

(2) the Committee on the Judiciary of the Senate; and

(3) the Committee on the Judiciary of the House of Representatives.

SEC. 19. FOUR-YEAR EXTENSION OF FISA AMENDMENTS ACT OF 2008.

(a) EXTENSION.—Section 403(b) of the FISA Amendments Act of 2008 (Public Law 110–261) is amended—

(1) in paragraph (1) (50 U.S.C. 1881–1881g note), by striking ''December 31, 2017'' and inserting ''September 30, 2021''; and

(2) in paragraph (2) (18 U.S.C. 2511 note), in the material preceding subparagraph (A), by striking ''December 31, 2017'' and inserting ''September 30, 2021''.

(b) CONFORMING AMENDMENT.—The heading of section 404(b)(1) of the FISA Amendments Act of 2008 (Public Law 110–261; 50 U.S.C. 1801 note) is amended by striking ''DECEMBER 31, 2017'' and inserting ''SEPTEMBER 30, 2021''.

SA 1890. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, strike line 13 and all that follows through page 27, line 23, and insert the following:

SEC. 103. PROHIBITION ON ACQUISITION, PURSUANT TO CERTAIN FISA AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES, OF COMMUNICATIONS THAT DO NOT INCLUDE PERSONS TARGETED UNDER SUCH AUTHORITIES.

Section 702(b) (50 U.S.C. 1881a(b)) is amended—

(1) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) may not acquire a communication as to which no participant is a person who is targeted pursuant to the authorized acquisition; and''.

SA 1891. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 2, strike line 14 and all that follows through page 15, line 6, and insert the following:

SEC. 101. CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting such subparagraphs, as so redesignated, an additional two ems from the left margin;

(2) by striking ''An acquisition'' and inserting the following:

''(1) IN GENERAL.—An acquisition''; and

(3) by adding at the end the following:

''(2) CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a query of information acquired under this section in an effort to find communications of or about a particular United States person or a person inside the United States.

''(B) CONCURRENT AUTHORIZATION AND EXCEPTION FOR EMERGENCY SITUATIONS.—Subparagraph (A) shall not apply to a query for communications related to a particular United States person or person inside the United States if—

''(i) such United States person or person inside the United States is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105, 304, 703, 704, or 705 of this Act, or under title 18, United States Code, for the effective period of that order;

''(ii) the entity carrying out the query has a reasonable belief that the life or safety of such United States person or person inside the United States is threatened and the information is sought for the purpose of assisting that person;

''(iii) such United States person or person in the United States is a corporation; or

''(iv) such United States person or person inside the United States has consented to the query.

''(C) QUERIES OF FEDERATED DATA SETS AND MIXED DATA.—If an officer or employee of the United States conducts a query of a data set, or of federated data sets, that includes any information acquired under this section, the system shall be configured not to return such information unless the officer or employee enters a code or other information indicating that—

''(i) the person associated with the search term is not a United States person or person inside the United States; or

''(ii) if the person associated with the search term is a United States person or person inside the United States, one or more of the conditions of subparagraph (B) are satisfied.

''(D) MATTERS RELATING TO EMERGENCY QUERIES.—

''(i) TREATMENT OF DENIALS.—In the event that a query for communications related to a particular United States person or a person inside the United States is conducted pursuant to an emergency authorization authorizing electronic surveillance or a physical search described in subsection (B)(i) and the application for such emergency authorization is denied, or in any other case in which the query has been conducted and no order is issued approving the query—

''(I) no information obtained or evidence derived from such query may 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

''(II) no information concerning any United States person acquired from such query may 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) ASSESSMENT OF COMPLIANCE.—The Attorney General shall assess compliance with the requirements under clause (i).''.

SA 1892. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. PROHIBITION ON REVERSE TARGETING UNDER CERTAIN AUTHORITIES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by section 2, is further amended—

(1) in subsection (b)(2), by striking ''the purpose of such acquisition is to target'' and inserting ''a significant purpose of such acquisition is to acquire the communications of'';

(2) in subsection (d)(1)(A)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(i) that''; and

(B) by adding at the end the following:

''(ii) 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; and'';

(3) in subsection (g)(2)(A)(i)(I)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(aa) that''; and

(B) by adding at the end the following:

''(bb) 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; and''; and

(4) in subsection (i)(2)(B)(i)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(I) that''; and

(B) by adding at the end the following:

''(II) 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; and''.

SA 1893. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. PROHIBITION ON ACQUISITION OF ENTIRELY DOMESTIC COMMUNICATIONS UNDER AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 19881a(b)) is amended—

(1) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) may not acquire communications known to be entirely domestic; and''.

SA 1894. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GROUNDS FOR DETERMINING INJURY IN FACT IN CIVIL ACTION RELATING TO SURVEILLANCE UNDER CERTAIN PROVISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 (50 U.S.C. 1881a), as amended by section 101, is further amended by adding at the end the following:

''(n) CHALLENGES TO GOVERNMENT SURVEILLANCE.—

''(1) INJURY IN FACT.—In any claim in a civil action brought in a court of the United States relating to surveillance conducted under this section, the person asserting the claim has suffered an injury in fact if the person—

''(A) has a reasonable basis to believe that the person's communications will be acquired under this section; and

''(B) has taken objectively reasonable steps to avoid surveillance under this section.

''(2) REASONABLE BASIS.—A person shall be presumed to have demonstrated a reasonable basis to believe that the communications of the person will be acquired under this section if the profession of the person requires the person regularly to communicate foreign intelligence information with persons who—

''(A) are not United States persons; and

''(B) are located outside the United States.

''(3) OBJECTIVE STEPS.—A person shall be presumed to have taken objectively reasonable steps to avoid surveillance under this section if the person demonstrates that the steps were taken in reasonable response to rules of professional conduct or analogous professional rules.''.

SA 1895. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, strike lines 14 through 24 and insert the following:

SEC. 106. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

(1) IN GENERAL.—Section 103(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(i)(1)) is amended by adding at the end the following: ''Any amicus curiae designated pursuant to this paragraph may raise any issue with the Court at any time.''.

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) REFERRAL FOR REVIEW.—

''(A) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

''(B) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the court established under subsection (b) for review as the Court considers appropriate.

''(C) REFERRAL TO SUPREME COURT.—If the Court of Review appoints an amicus curiae under paragraph (2) to assist the Court of Review in the review of any matter presented to the Court of Review under this Act or a question of law that may affect resolution of a matter in controversy and the Court of Review makes a decision with respect to such matter or question of law, the Court of Review, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the Supreme Court for review as the Court of Review considers appropriate.

''(D) ANNUAL REPORT.—Not later than 60 days after the end of each calendar year, the Court and the Court of Review shall each publish, on their respective Internet websites, a report listing—

''(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

''(ii) the number of such applications for referral that were granted by the Court or the Court of Review, as applicable, during such calendar year.''.

(3) ASSISTANCE.—Section 103(i)(6) of such Act, as redesignated, is further amended to read as follows:

''(6) ASSISTANCE.—Any individual designated pursuant to paragraph (1) may raise a legal or technical issue or any other issue with the Court or the Court of Review at any time. If an amicus curiae is appointed under paragraph (2)(A)—

''(A) the court shall notify all other amicus curiae designated under paragraph (1) of such appointment;

''(B) the appointed amicus curiae may request, either directly or through the court, the assistance of the other amici curiae designated under paragraph (1); and

''(C) all amici curiae designated under paragraph (1) may provide input to the court whether or not such input was formally requested by the court or the appointed amicus curiae.''.

(4) ACCESS TO INFORMATION.—Section 103(i)(7) of such Act, as redesignated, is further amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''that the court'' and inserting the following: ''that—

''(I) the court''; and

(II) by striking ''and'' at the end and inserting the following: ''or

''(II) are cited by the Government in an application or case with respect to which an amicus curiae is assisting a court under this subsection;'';

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) shall have access to an unredacted copy of each decision made by a court established under subsection (a) or (b) in which the court decides a question of law, notwithstanding whether the decision is classified; and'';

(B) in subparagraph (B), by striking ''may'' and inserting ''shall''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''CLASSIFIED INFORMATION'' and inserting ''ACCESS TO INFORMATION''; and

(ii) by striking ''court may have access'' and inserting the following: ''court—

''(i) shall have access to unredacted copies of each opinion, order, transcript, pleading, or other document of the Court and the Court of Review; and

''(ii) may have access''.

(5) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:

''(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Whenever a court established under subsection (a) or (b) considers a novel a question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

''(A) by publishing on its Internet website each question of law that the court is considering; and

''(B) by accepting briefs from third parties relating to the question under consideration by the court.''.

(6) COMPENSATION OF AMICI CURIAE AND TECHNICAL EXPERTS.—Such section, as so amended, is further amended by adding at the end the following:

''(13) COMPENSATION.—Notwithstanding any other provision of law, a court established under subsection (a) or (b) may compensate an amicus curiae appointed under paragraph (2) for assistance provided under such paragraph as the court considers appropriate and at such rate as the court considers appropriate.''.

(b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.—

(1) IN GENERAL.—Section 702(i)(2) of such Act (50 U.S.C. 1881a(i)(2)) is amended—

(A) in subparagraph (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the indentation of the margin of such subclauses, as so redesignated, two ems to the right;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the indentation of the margin of such clauses, as so redesignated, two ems to the right;

(C) by inserting before clause (i), as redesignated by subparagraph (B), the following:

''(A) IN GENERAL.—''; and

(D) by adding at the end the following:

''(B) PARTICIPATION BY AMICI CURIAE.—In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.''.

(2) SCHEDULE.—Section 702(i)(5)(A) of such Act is amended by striking ''at least 30 days prior to the expiration of such authorization'' and inserting ''such number of days before the expiration of such authorization as the Court considers necessary to comply with the requirements of paragraph (2)(B) or 30 days, whichever is greater''.

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—

(1) by striking ''Following'' and inserting the following:

''(1) IN GENERAL.—Following''; and

(2) by adding at the end the following:

''(2) PUBLIC NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), whenever a court established under subsection (a) certifies a question of law for review under paragraph (1) of this subsection, the court shall publish on its Internet website—

''(i) a notice of the question of law to be reviewed; and

''(ii) briefs submitted by the parties, which may be redacted at the discretion of the court to protect sources, methods, and other classified information.

''(B) PROTECTION OF CLASSIFIED INFORMATION, SOURCES, AND METHODS.—Subparagraph (A) shall apply to the greatest extent practicable, consistent with otherwise applicable law on the protection of classified information, sources, and methods.''.

SA 1896. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; 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 ''Uniting and Strengthening America by Reforming and Improving the Government's High-Tech Surveillance Act of 2017'' or the ''USA RIGHTS Act of 2017''.

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

SEC. 2. CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting such subparagraphs, as so redesignated, an additional two ems from the left margin;

(2) by striking ''An acquisition'' and inserting the following:

''(1) IN GENERAL.—An acquisition''; and

(3) by adding at the end the following:

''(2) CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a

query of information acquired under this section in an effort to find communications of or about a particular United States person or a person inside the United States.

''(B) CONCURRENT AUTHORIZATION AND EXCEPTION FOR EMERGENCY SITUATIONS.—Subparagraph (A) shall not apply to a query for communications related to a particular United States person or person inside the United States if—

''(i) such United States person or person inside the United States is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105, 304, 703, 704, or 705 of this Act, or under title 18, United States Code, for the effective period of that order;

''(ii) the entity carrying out the query has a reasonable belief that the life or safety of such United States person or person inside the United States is threatened and the information is sought for the purpose of assisting that person;

''(iii) such United States person or person in the United States is a corporation; or

''(iv) such United States person or person inside the United States has consented to the query.

''(C) QUERIES OF FEDERATED DATA SETS AND MIXED DATA.—If an officer or employee of the United States conducts a query of a data set, or of federated data sets, that includes any information acquired under this section, the system shall be configured not to return such information unless the officer or employee enters a code or other information indicating that—

''(i) the person associated with the search term is not a United States person or person inside the United States; or

''(ii) if the person associated with the search term is a United States person or person inside the United States, one or more of the conditions of subparagraph (B) are satisfied.

''(D) MATTERS RELATING TO EMERGENCY QUERIES.—

''(i) TREATMENT OF DENIALS.—In the event that a query for communications related to a particular United States person or a person inside the United States is conducted pursuant to an emergency authorization authorizing electronic surveillance or a physical search described in subsection (B)(i) and the application for such emergency authorization is denied, or in any other case in which the query has been conducted and no order is issued approving the query—

''(I) no information obtained or evidence derived from such query may 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

''(II) no information concerning any United States person acquired from such query may 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) ASSESSMENT OF COMPLIANCE.—The Attorney General shall assess compliance with the requirements under clause (i).''.

SEC. 3. PROHIBITION ON REVERSE TARGETING UNDER CERTAIN AUTHORITIES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by section 2, is further amended—

(1) in subsection (b)(1)(B), as redesignated by section 2, by striking ''the purpose of such acquisition is to target'' and inserting ''a significant purpose of such acquisition is to acquire the communications of'';

(2) in subsection (d)(1)(A)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(i) that''; and

(B) by adding at the end the following:

''(ii) 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; and'';

(3) in subsection (g)(2)(A)(i)(I)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(aa) that''; and

(B) by adding at the end the following:

''(bb) 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; and''; and

(4) in subsection (i)(2)(B)(i)—

(A) by striking ''ensure that'' and inserting the following: ''ensure—

''(I) that''; and

(B) by adding at the end the following:

''(II) 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; and''.

SEC. 4. PROHIBITION ON ACQUISITION, PURSUANT TO CERTAIN FISA AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES, OF COMMUNICATIONS THAT DO NOT INCLUDE PERSONS TARGETED UNDER SUCH AUTHORITIES.

Section 702(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 2, is amended—

(1) in subparagraph (D), as redesignated by section 2, by striking ''; and'' and inserting a semicolon;

(2) by redesignating subparagraph (E) as subparagraph (G); and

(3) by inserting after subparagraph (D) the following:

''(E) may not acquire a communication as to which no participant is a person who is targeted pursuant to the authorized acquisition;''.

SEC. 5. PROHIBITION ON ACQUISITION OF ENTIRELY DOMESTIC COMMUNICATIONS UNDER AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES.

Section 702(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 2 and amended by section 4, is further amended by inserting after subparagraph (E), as added by section 4, the following:

''(F) may not acquire communications known to be entirely domestic; and''.

SEC. 6. LIMITATION ON USE OF INFORMATION OBTAINED UNDER CERTAIN AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO UNITED STATES PERSONS.

Section 706(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881e(a)) is amended—

(1) by striking ''Information acquired'' and inserting the following:

''(1) IN GENERAL.—Information acquired''; and

(2) by adding at the end the following:

''(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No communication to or from, or information about, a person acquired under section 702 who is either a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

''(A) with the prior approval of the Attorney General; and

''(B) in a proceeding or investigation in which the information is directly related to and necessary to address a specific threat of—

''(i) terrorism (as defined in clauses (i) through (iii) of section 2332(g)(5)(B) of title 18, United States Code);

''(ii) espionage (as used in chapter 37 of title 18, United States Code);

''(iii) proliferation or use of a weapon of mass destruction (as defined in section 2332a(c) of title 18, United States Code);

''(iv) a cybersecurity threat from a foreign country;

''(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or

''(vi) a threat to the armed forces of the United States or an ally of the United States or to other personnel of the United States Government or a government of an ally of the United States.''.

SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) INCLUSION OF FOREIGN INTELLIGENCE ACTIVITIES IN OVERSIGHT AUTHORITY OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee) is amended—

(1) in subsection (c), by inserting ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears; and

(2) in subsection (d), ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears.

(b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

(1) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by subsection (a), is further amended—

(A) in subsection (d), by adding at the end the following:

''(5) WHISTLEBLOWER COMPLAINTS.—

''(A) SUBMISSION TO BOARD.—An employee of, or contractor or detailee to, an element of the intelligence community may submit to the Board a complaint or information that such employee, contractor, or detailee believes relates to a privacy or civil liberties concern. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

''(B) AUTHORITY OF BOARD.—The Board may take such action as the Board considers appropriate with respect to investigating a complaint or information submitted under subparagraph (A) or transmitting such complaint or information to any other Executive agency or the congressional intelligence committees.

''(C) RELATIONSHIP TO EXISTING LAWS.—The authority under subparagraph (A) of an employee, contractor, or detailee to submit to the Board a complaint or information shall be in addition to any other authority under

another provision of law to submit a complaint or information. Any action taken under any other provision of law by the recipient of a complaint or information shall not preclude the Board from taking action relating to the same complaint or information.

''(D) RELATIONSHIP TO ACTIONS TAKEN UNDER OTHER LAWS.—Nothing in this paragraph shall prevent—

''(i) any individual from submitting a complaint or information to any authorized recipient of the complaint or information; or

''(ii) the recipient of a complaint or information from taking independent action on the complaint or information.''; and

(B) by adding at the end the following:

''(n) DEFINITIONS.—In this section, the terms 'congressional intelligence committees' and 'intelligence community' have the meanings given such terms in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).''.

(2) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended, in the matter preceding clause (i), by striking ''or to the Inspector of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command (up to and including the head of the employing agency), the Privacy and Civil Liberties Oversight Board, or an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(c) PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD SUBPOENA POWER.—Section 1061(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is amended—

(1) in paragraph (1)(D), by striking ''submit a written request to the Attorney General of the United States that the Attorney General'';

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(d) APPOINTMENT OF STAFF OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) APPOINTMENT IN ABSENCE OF CHAIRMAN.—If the position of chairman of the Board is vacant, during the period of the vacancy the Board, at the direction of the majority of the members of the Board, may exercise the authority of the chairman under paragraph (1).''.

(e) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—

(1) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by subsections (a) and (b), is further amended—

(A) in subsection (h)—

(i) in paragraph (1), by inserting ''full-time'' after ''4 additional''; and

(ii) in paragraph (4)(B), by striking '', except that'' and all that follows through the end and inserting a period;

(B) in subsection (i)(1)—

(i) in subparagraph (A), by striking ''level III of the Executive Schedule under section 5314'' and inserting ''level II of the Executive Schedule under section 5313''; and

(ii) in subparagraph (B), by striking ''level IV of the Executive Schedule'' and all that follows through the end and inserting ''level III of the Executive Schedule under section 5314 of title 5, United States Code.''; and

(C) in subsection (j)(1), by striking ''level V of the Executive Schedule under section 5316'' and inserting ''level IV of the Executive Schedule under section 5315''.

(2) EFFECTIVE DATE; APPLICABILITY.—

(A) IN GENERAL.—The amendments made by paragraph (1)—

(i) shall take effect on the date of the enactment of this Act; and

(ii) except as provided in paragraph (2), shall apply to any appointment to a position as a member of the Privacy and Civil Liberties Oversight Board made on or after the date of the enactment of this Act.

(B) EXCEPTIONS.—

(i) COMPENSATION CHANGES.—The amendments made by subparagraphs (B)(i) and (C) of paragraph (1) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(ii) ELECTION TO SERVE FULL TIME BY INCUMBENTS.—

(I) IN GENERAL.—An individual serving as a member of the Privacy and Civil Liberties Oversight Board on the date of the enactment of this Act, including a member continuing to serve as a member under section 1061(h)(4)(B) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(h)(4)(B)), (referred to in this clause as a ''current member'') may make an election to—

(aa) serve as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis and in accordance with section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by this section; or

(bb) serve as a member of the Privacy and Civil Liberties Oversight Board on a part-time basis in accordance with such section 1061, as in effect on the day before the date of the enactment of this Act, including the limitation on service after the expiration of the term of the member under subsection (h)(4)(B) of such section, as in effect on the day before the date of the enactment of this Act.

(II) ELECTION TO SERVE FULL TIME.—A current member making an election under subclause (I)(aa) shall begin serving as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis on the first day of the first pay period beginning not less than 60 days after the date on which the current member makes such election.

(f) PROVISION OF INFORMATION ABOUT GOVERNMENT ACTIVITIES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—The Attorney General shall fully inform the Privacy and Civil Liberties Oversight Board about any activities carried out by the Government under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), including by providing to the Board—

(1) copies of each detailed report submitted to a committee of Congress under such Act; and

(2) copies of each decision, order, and opinion of the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review required to be included in the report under section 601(a) of such Act (50 U.S.C. 1871(a)).

SEC. 8. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

(1) IN GENERAL.—Section 103(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(i)(1)) is amended by adding at the end the following: ''Any amicus curiae designated pursuant to this paragraph may raise any issue with the Court at any time.''.

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) REFERRAL FOR REVIEW.—

''(A) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

''(B) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the court established under subsection (b) for review as the Court considers appropriate.

''(C) REFERRAL TO SUPREME COURT.—If the Court of Review appoints an amicus curiae under paragraph (2) to assist the Court of Review in the review of any matter presented to the Court of Review under this Act or a question of law that may affect resolution of a matter in controversy and the Court of Review makes a decision with respect to such matter or question of law, the Court of Review, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the Supreme Court for review as the Court of Review considers appropriate.

''(D) ANNUAL REPORT.—Not later than 60 days after the end of each calendar year, the Court and the Court of Review shall each publish, on their respective Internet websites, a report listing—

''(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

''(ii) the number of such applications for referral that were granted by the Court or the Court of Review, as applicable, during such calendar year.''.

(3) ASSISTANCE.—Section 103(i)(6) of such Act, as redesignated, is further amended to read as follows:

''(6) ASSISTANCE.—Any individual designated pursuant to paragraph (1) may raise a legal or technical issue or any other issue with the Court or the Court of Review at any time. If an amicus curiae is appointed under paragraph (2)(A)—

''(A) the court shall notify all other amicus curiae designated under paragraph (1) of such appointment;

''(B) the appointed amicus curiae may request, either directly or through the court, the assistance of the other amici curiae designated under paragraph (1); and

''(C) all amici curiae designated under paragraph (1) may provide input to the court whether or not such input was formally requested by the court or the appointed amicus curiae.''.

(4) ACCESS TO INFORMATION.—Section 103(i)(7) of such Act, as redesignated, is further amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''that the court'' and inserting the following: ''that—

''(I) the court''; and

(II) by striking ''and'' at the end and inserting the following: ''or

''(II) are cited by the Government in an application or case with respect to which an amicus curiae is assisting a court under this subsection;'';

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) shall have access to an unredacted copy of each decision made by a court established under subsection (a) or (b) in which the court decides a question of law, notwithstanding whether the decision is classified; and'';

(B) in subparagraph (B), by striking ''may'' and inserting ''shall''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''CLASSIFIED INFORMATION'' and inserting ''ACCESS TO INFORMATION''; and

(ii) by striking ''court may have access'' and inserting the following: ''court—

''(i) shall have access to unredacted copies of each opinion, order, transcript, pleading, or other document of the Court and the Court of Review; and

''(ii) may have access''.

(5) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:

''(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Whenever a court established under subsection (a) or (b) considers a novel a question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

''(A) by publishing on its Internet website each question of law that the court is considering; and

''(B) by accepting briefs from third parties relating to the question under consideration by the court.''.

(b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.—

(1) IN GENERAL.—Section 702(i)(2) of such Act (50 U.S.C. 1881a(i)(2)) is amended—

(A) in subparagraph (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the indentation of the margin of such subclauses, as so redesignated, two ems to the right;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the indentation of the margin of such clauses, as so redesignated, two ems to the right;

(C) by inserting before clause (i), as redesignated by subparagraph (B), the following:

''(A) IN GENERAL.—''; and

(D) by adding at the end the following:

''(B) PARTICIPATION BY AMICI CURIAE.—In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.''.

(2) SCHEDULE.—Section 702(i)(5)(A) of such Act is amended by striking ''at least 30 days prior to the expiration of such authorization'' and inserting ''such number of days before the expiration of such authorization as the Court considers necessary to comply with the requirements of paragraph (2)(B) or 30 days, whichever is greater''.

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—

(1) by striking ''Following'' and inserting the following:

''(1) IN GENERAL.—Following''; and

(2) by adding at the end the following:

''(2) PUBLIC NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), whenever a court established under subsection (a) certifies a question of law for review under paragraph (1) of this subsection, the court shall publish on its Internet website—

SA 1897. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. PROHIBITION ON ACQUISITION OF ENTIRELY DOMESTIC COMMUNICATIONS UNDER AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 19881a(b)) is amended—

(1) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) may not acquire communications known to be entirely domestic; and''.

SA 1898. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, strike lines 14 through 24 and insert the following:

SEC. 106. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

(1) IN GENERAL.—Section 103(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(i)(1)) is amended by adding at the end the following: ''Any amicus curiae designated pursuant to this paragraph may raise any issue with the Court at any time.''.

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) REFERRAL FOR REVIEW.—

''(A) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

''(B) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the court established under subsection (b) for review as the Court considers appropriate.

''(C) REFERRAL TO SUPREME COURT.—If the Court of Review appoints an amicus curiae under paragraph (2) to assist the Court of Review in the review of any matter presented to the Court of Review under this Act or a question of law that may affect resolution of a matter in controversy and the Court of Review makes a decision with respect to such matter or question of law, the Court of Review, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the Supreme Court for review as the Court of Review considers appropriate.

''(D) ANNUAL REPORT.—Not later than 60 days after the end of each calendar year, the Court and the Court of Review shall each publish, on their respective Internet websites, a report listing—

''(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

''(ii) the number of such applications for referral that were granted by the Court or the Court of Review, as applicable, during such calendar year.''.

(3) ASSISTANCE.—Section 103(i)(6) of such Act, as redesignated, is further amended to read as follows:

''(6) ASSISTANCE.—Any individual designated pursuant to paragraph (1) may raise a legal or technical issue or any other issue with the Court or the Court of Review at any time. If an amicus curiae is appointed under paragraph (2)(A)—

''(A) the court shall notify all other amicus curiae designated under paragraph (1) of such appointment;

''(B) the appointed amicus curiae may request, either directly or through the court, the assistance of the other amici curiae designated under paragraph (1); and

''(C) all amici curiae designated under paragraph (1) may provide input to the court whether or not such input was formally requested by the court or the appointed amicus curiae.''.

(4) ACCESS TO INFORMATION.—Section 103(i)(7) of such Act, as redesignated, is further amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''that the court'' and inserting the following: ''that—

''(I) the court''; and

(II) by striking ''and'' at the end and inserting the following: ''or

''(II) are cited by the Government in an application or case with respect to which an amicus curiae is assisting a court under this subsection;'';

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) shall have access to an unredacted copy of each decision made by a court established under subsection (a) or (b) in which

the court decides a question of law, notwithstanding whether the decision is classified; and'';

(B) in subparagraph (B), by striking ''may'' and inserting ''shall''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''CLASSIFIED INFORMATION'' and inserting ''ACCESS TO INFORMATION''; and

(ii) by striking ''court may have access'' and inserting the following: ''court—

''(i) shall have access to unredacted copies of each opinion, order, transcript, pleading, or other document of the Court and the Court of Review; and

''(ii) may have access''.

(5) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:

''(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Whenever a court established under subsection (a) or (b) considers a novel a question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

''(A) by publishing on its Internet website each question of law that the court is considering; and

''(B) by accepting briefs from third parties relating to the question under consideration by the court.''.

(6) COMPENSATION OF AMICI CURIAE AND TECHNICAL EXPERTS.—Such section, as so amended, is further amended by adding at the end the following:

''(13) COMPENSATION.—Notwithstanding any other provision of law, a court established under subsection (a) or (b) may compensate an amicus curiae appointed under paragraph (2) for assistance provided under such paragraph as the court considers appropriate and at such rate as the court considers appropriate.''.

(b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.—

(1) IN GENERAL.—Section 702(i)(2) of such Act (50 U.S.C. 1881a(i)(2)) is amended—

(A) in subparagraph (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the indentation of the margin of such subclauses, as so redesignated, two ems to the right;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the indentation of the margin of such clauses, as so redesignated, two ems to the right;

(C) by inserting before clause (i), as redesignated by subparagraph (B), the following:

''(A) IN GENERAL.—''; and

(D) by adding at the end the following:

''(B) PARTICIPATION BY AMICI CURIAE.—In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.''.

(2) SCHEDULE.—Section 702(i)(5)(A) of such Act is amended by striking ''at least 30 days prior to the expiration of such authorization'' and inserting ''such number of days before the expiration of such authorization as the Court considers necessary to comply with the requirements of paragraph (2)(B) or 30 days, whichever is greater''.

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—

(1) by striking ''Following'' and inserting the following:

''(1) IN GENERAL.—Following''; and

(2) by adding at the end the following:

''(2) PUBLIC NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), whenever a court established under subsection (a) certifies a question of law for review under paragraph (1) of this subsection, the court shall publish on its Internet website—

''(i) a notice of the question of law to be reviewed; and

''(ii) briefs submitted by the parties, which may be redacted at the discretion of the court to protect sources, methods, and other classified information.

''(B) PROTECTION OF CLASSIFIED INFORMATION, SOURCES, AND METHODS.—Subparagraph (A) shall apply to the greatest extent practicable, consistent with otherwise applicable law on the protection of classified information, sources, and methods.''.

SA 1899. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 32, strike line 16 and all that follows through page 33, line 21, and insert the following:

SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) INCLUSION OF FOREIGN INTELLIGENCE ACTIVITIES IN OVERSIGHT AUTHORITY OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee) is amended—

(1) in subsection (c), by inserting ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears; and

(2) in subsection (d), ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears.

(b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

(1) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by subsection (a), is further amended—

(A) in subsection (d), by adding at the end the following:

''(5) WHISTLEBLOWER COMPLAINTS.—

''(A) SUBMISSION TO BOARD.—An employee of, or contractor or detailee to, an element of the intelligence community may submit to the Board a complaint or information that such employee, contractor, or detailee believes relates to a privacy or civil liberties concern. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

''(B) AUTHORITY OF BOARD.—The Board may take such action as the Board considers appropriate with respect to investigating a complaint or information submitted under subparagraph (A) or transmitting such complaint or information to any other Executive agency or the congressional intelligence committees.

''(C) RELATIONSHIP TO EXISTING LAWS.—The authority under subparagraph (A) of an employee, contractor, or detailee to submit to the Board a complaint or information shall be in addition to any other authority under another provision of law to submit a complaint or information. Any action taken under any other provision of law by the recipient of a complaint or information shall not preclude the Board from taking action relating to the same complaint or information.

''(D) RELATIONSHIP TO ACTIONS TAKEN UNDER OTHER LAWS.—Nothing in this paragraph shall prevent—

''(i) any individual from submitting a complaint or information to any authorized recipient of the complaint or information; or

''(ii) the recipient of a complaint or information from taking independent action on the complaint or information.''; and

(B) by adding at the end the following:

''(n) DEFINITIONS.—In this section, the terms 'congressional intelligence committees' and 'intelligence community' have the meanings given such terms in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).''.

(2) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended, in the matter preceding clause (i), by striking ''or to the Inspector of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command (up to and including the head of the employing agency), the Privacy and Civil Liberties Oversight Board, or an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(c) PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD SUBPOENA POWER.—Section 1061(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is amended—

(1) in paragraph (1)(D), by striking ''submit a written request to the Attorney General of the United States that the Attorney General'';

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(d) APPOINTMENT OF STAFF OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) APPOINTMENT IN ABSENCE OF CHAIRMAN.—If the position of chairman of the Board is vacant, during the period of the vacancy the Board, at the direction of the majority of the members of the Board, may exercise the authority of the chairman under paragraph (1).''.

(e) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—

(1) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by subsections (a) and (b), is further amended—

(A) in subsection (h)—

(i) in paragraph (1), by inserting ''full-time'' after ''4 additional''; and

(ii) in paragraph (4)(B), by striking '', except that'' and all that follows through the end and inserting a period;

(B) in subsection (i)(1)—

(i) in subparagraph (A), by striking ''level III of the Executive Schedule under section 5314'' and inserting ''level II of the Executive Schedule under section 5313''; and

(ii) in subparagraph (B), by striking ''level IV of the Executive Schedule'' and all that follows through the end and inserting ''level

III of the Executive Schedule under section 5314 of title 5, United States Code.''; and

(C) in subsection (j)(1), by striking ''level V of the Executive Schedule under section 5316'' and inserting ''level IV of the Executive Schedule under section 5315''.

(2) EFFECTIVE DATE; APPLICABILITY.—

(A) IN GENERAL.—The amendments made by paragraph (1)—

(i) shall take effect on the date of the enactment of this Act; and

(ii) except as provided in paragraph (2), shall apply to any appointment to a position as a member of the Privacy and Civil Liberties Oversight Board made on or after the date of the enactment of this Act.

(B) EXCEPTIONS.—

(i) COMPENSATION CHANGES.—The amendments made by subparagraphs (B)(i) and (C) of paragraph (1) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(ii) ELECTION TO SERVE FULL TIME BY INCUMBENTS.—

(I) IN GENERAL.—An individual serving as a member of the Privacy and Civil Liberties Oversight Board on the date of the enactment of this Act, including a member continuing to serve as a member under section 1061(h)(4)(B) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(h)(4)(B)), (referred to in this clause as a ''current member'') may make an election to—

(aa) serve as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis and in accordance with section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by this section; or

(bb) serve as a member of the Privacy and Civil Liberties Oversight Board on a part-time basis in accordance with such section 1061, as in effect on the day before the date of the enactment of this Act, including the limitation on service after the expiration of the term of the member under subsection (h)(4)(B) of such section, as in effect on the day before the date of the enactment of this Act.

(II) ELECTION TO SERVE FULL TIME.—A current member making an election under subclause (I)(aa) shall begin serving as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis on the first day of the first pay period beginning not less than 60 days after the date on which the current member makes such election.

(f) MEETINGS.—Subsection (f) of such section is amended—

(1) by striking ''The Board shall'' and inserting ''The Board'';

(2) in paragraph (1) by striking ''make its'' and inserting ''shall make its''; and

(3) in paragraph (2)—

(A) by striking ''hold public'' and inserting ''shall hold public''; and

(B) by inserting before the period at the end the following: '', but may, notwithstanding section 552b of title 5, United States Code, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public''.

(g) PROVISION OF INFORMATION ABOUT GOVERNMENT ACTIVITIES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—The Attorney General shall fully inform the Privacy and Civil Liberties Oversight Board about any activities carried out by the Government under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), including by providing to the Board—

(1) copies of each detailed report submitted to a committee of Congress under such Act; and

(2) copies of each decision, order, and opinion of the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review required to be included in the report under section 601(a) of such Act (50 U.S.C. 1871(a)).

SA 1900. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 24, add the following:

SEC. 206. REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 603(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by striking ''(A) FEDERAL BUREAU'' and all that follows through ''Paragraph (3)(B) of'' and inserting ''Paragraph (3)(B)''.

SA 1901. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. LIMITATION ON TECHNICAL ASSISTANCE FROM ELECTRONIC COMMUNICATION SERVICE PROVIDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(i)(1)), as redesignated by section 101(a)(1)(A), is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses 2 ems to the right;

(2) by striking ''With respect to'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), in carrying out''; and

(3) by adding at the end the following:

''(B) LIMITATIONS.—The Attorney General or the Director of National Intelligence may not request assistance from an electronic communication service provider under subparagraph (A) without demonstrating, to the satisfaction of the Court, that the assistance sought—

''(i) is necessary;

''(ii) is narrowly tailored to the surveillance at issue; and

''(iii) would not pose an undue burden on the electronic communication service provider or its customers who are not an intended target of the surveillance.

''(C) COMPLIANCE.—An electronic communication service provider is not obligated to comply with a directive to provide assistance under this paragraph unless—

''(i) such assistance is a manner or method that has been explicitly approved by the Court; and

''(ii) the Court issues an order, which has been delivered to the provider, explicitly describing the assistance to be furnished by the provider that has been approved by the Court.''.

SA 1902. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 6 through 22 and insert the following:

SEC. 111. CLARIFICATION REGARDING TREATMENT OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) DERIVED DEFINED.—

(1) IN GENERAL.—Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended by adding at the end the following:

''(q) For the purposes of notification provisions of this Act, information or evidence is 'derived' from an electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition under this Act when the Government would not have originally possessed the information or evidence but for that electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition, and regardless of any claim that the information or evidence is attenuated from the surveillance or search, would inevitably have been discovered, or was subsequently reobtained through other means.''.

(2) POLICIES AND GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Director of National Intelligence shall publish the following:

(i) Policies concerning the application of subsection (q) of section 101 of such Act, as added by paragraph (1).

(ii) Guidance for all members of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) and all Federal agencies with law enforcement responsibilities concerning the application of such subsection.

(B) MODIFICATIONS.—Whenever the Attorney General and the Director modify a policy or guidance published under subparagraph (A), the Attorney General and the Director shall publish such modifications.

(b) USE OF INFORMATION ACQUIRED UNDER TITLE VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking '', except for the purposes of subsection (j) of such section''; and

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

''(b) INFORMATION ACQUIRED UNDER SECTIONS 703–705.—Information acquired from an acquisition conducted under section 703, 704, or 705 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for the purposes of section 106.''.

AUTHORITY FOR COMMITTEES TO MEET

Mr. ROUNDS. Mr. President, I have 2 requests for committees to meet during

today's session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Tuesday, January 16, 2018, at 10 a.m., to conduct a hearing entitled ''to examine the domestic and global energy outlook from the perspective of the International Energy Agency''.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Tuesday, January 16, 2018, at 10 a.m., to conduct a hearing entitled ''Oversight of the United States Department of Homeland Security.''

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to the provisions of Public Law 114–255, appoints the following individuals to the Health Information Technology Advisory Committee: Valarie R. Grey of New York and Aaron A. Miri of Massachusetts.

MEASURE READ THE FIRST TIME—S. 2311

Mr. ROUNDS. Mr. President, I understand that there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The bill clerk read as follows:

A bill (S. 2311) to amend title 18, United States Code, to protect pain-capable unborn children, and for other purposes.

Mr. ROUNDS. Mr. President, I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR WEDNESDAY, JANUARY 17, 2018

Mr. ROUNDS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Wednesday, January 17; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; further, that following leader remarks, the Senate resume consideration of the motion to concur in the House amendment to accompany S. 139; finally, that all time during recess, adjournment, morning business, and leader remarks count postcloture on the motion to concur.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROUNDS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:58 p.m., adjourned until Wednesday, January 17, 2018, at 10 a.m.