United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *110th* CONGRESS, SECOND SESSION

Vol. 154 WASHINGTON, WEDNESDAY, JUNE 25, 2008 *No. 106*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

O Lord, who has been our dwelling place in all generations, keep us under the canopy of Your care. Guide our Senators by the power of Your wisdom and love. Lord, don't separate them from life's stresses and strains or keep them from problems and pain but sustain them by Your grace as each of life's seasons unfolds. Shelter them in their coming in and their going out, using them as Your instruments to advance Your kingdom. May all they say and do today be under Your control and for Your glory. As You have guided people in the past, so lead our lawmakers today.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 25, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following the remarks of the two leaders, the Senate will resume consideration of the House message to accompany H.R. 3221, which is the housing legislation. Yesterday, cloture was invoked on the motion to concur in the House amendment with the Dodd-Shelby substitute. We hope to dispose of the remaining amendments to the bill at an early time so we can complete this legislation.

MEASURES PLACED ON THE CALENDAR—S. 3186 AND H.R. 6331

Mr. REID. Mr. President, it is my understanding there are two bills now at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bills by title for the second time.

The legislative clerk read as follows:

A bill (S. 3186) to provide funding for the Low-Income Home Energy Assistance Program.

A bill (H.R. 6331) to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

Mr. REID. Mr. President, I would object to any further proceedings with respect to these bills en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 3221, which the clerk will report.

The assistant clerk read as follows:

A message from the House of Representatives to accompany H.R. 3221, an act to provide needed housing reform and for other purposes.

Pending:

Reid (for Dodd/Shelby) amendment No. 4983, of a perfecting nature.

Bond amendment No. 4987 (to amendment No. 4983), to enhance mortgage loan disclosure requirements with additional safeguards for adjustable rate mortgages with an initial fixed rate and loans that contain prepayment penalty.

Dole amendment No. 4984 (to amendment No. 4983), to improve the regulation of appraisal standards.

Sununu amendment No. 4999 (to amendment No. 4983), to amend the United States Housing Act of 1937 to exempt qualified public housing agencies from the requirement of preparing an annual public housing agency plan.

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

Kohl amendment No. 4988 (to amendment No. 4983), to protect the property and security of homeowners who are subject to foreclosure proceedings.

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

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

OVERSIGHT

Mr. GRASSLEY. I am here today to discuss a very serious matter that goes right to the heart of one of Congress's most important responsibilities, the responsibility of constitutional oversight to see that the laws are faithfully executed by the executive branch of Government.

American taxpayers expect Congress to exercise oversight in order to ensure that their hard-earned dollars are not wasted. To conduct more effective oversight, Congress adopted the Inspector General Act in 1978, creating a system of inspectors general. I will probably refer to them as everyone else does, as IGs.

We did this throughout many departments of Government. The IGs are supposed to be watchdogs or, as I like to say, a junkyard dog. They are our first line of defense against fraud, waste, and abuse. When it happens, the IGs are supposed to report it to the agency head and to Congress and to recommend appropriate corrective action.

IGs are the top cops inside of each agency in the executive branch of Government. They police the Federal workforce. If rules are broken, then they have to investigate allegations of misconduct and refer their findings to proper authorities.

To be credible, IGs must be beyond reproach. Above all, they must live by the rules they themselves enforce. They must set an example of excellence in their personal conduct and they must always do so; otherwise, they lack credibility. So I tend to, as a Member of the Senate, watch the watchdogs. Over the years in doing oversight work, I have found inspectors general who do not seem to meet these standards. I am disappointed to have to report to the Senate today about a new IG trouble spot.

There are allegations of misconduct in the upper echelons of the Treasury's IG office. A tip from a whistleblower earlier this year first alerted me to this problem. On February 12, 2008, I wrote a letter to Acting Treasury IG Schindel asking for a copy of the investigative report and all pertinent material bearing on the matter that was reported to me.

I also asked Mr. Schindel to tell me how and when he intended to address and resolve the issues raised in that report. Mr. Schindel responded promptly, providing a redacted copy of the report on February 15. On February 29, he assured me that senior level officials involved had been placed on paid administrative leave. They would remain on that status, he told me, ''until all investigative matters have been adjudicated,'' and ''one of them'' was reassigned to what appeared to be a questionable post.

The report of investigation on this matter was prepared by the Department of Labor IG. It is dated January 14, 2008. Since the Treasury IG lacks an internal affairs unit, IG Schindel referred the case to the Department of Labor IG for investigation. This was to ensure maximum independence.

Acting IG Schindel made the referral on June 18, 2007. He was briefed on the findings in the final report on September 26 of last year. The Department of Labor report of investigations substantiated wrongdoing on the part of senior Treasury IG officials. The allegations are very serious. My staff has carefully reviewed all of the materials provided by IG Schindel and interviewed a number of witnesses with knowledge on the issue.

Based on the oversight investigation conducted by my staff, I wrote to Treasury Secretary Paulson on February 28 this year. In that letter, I expressed grave concern to Secretary Paulson about the way the Acting IG Schindel appeared to be responding to the allegations that were substantiated by the more independent review by the Labor Department IG, as was reported in his writings.

This is what I said to my friend, Secretary Paulson:

Mr. Schindel stated that the report showed no corruption, criminal activity, or serious wrongdoing on the part of the senior officials. I am stunned that anyone with management responsibilities could make this statement after reading the Labor IG report.

The Labor IG presented a compelling case of high-level IG misconduct backed up with rock solid evidence. Mr. Schindel seemed unable to see what the Labor inspector general sees. Is he turning a blind eye to an obvious problem?

Secretary Paulson responded to my letter on March 10. He informed me that he has been briefed on the Labor IG's report and ''communicated to Acting IG Schindel'' his ''views'' on the matter.

The Labor IG report seems to leave little or no wiggle room. Based on a continuous stream of information being provided to my staff, there is growing concern about Acting IG Schindel's commitment to solving these problems. I think of these as obvious problems.

Acting IG Schindel has known about the findings in this report for 9 months until now. To bring the issue into sharper focus, take a moment to review the Labor IG's findings. This is what the Labor IG report found:

Our investigation corroborated the allegation that senior IG officials violated the Public Transit Subsidy program.

This program provides money in the form of fare cards to Government employees to help cover the high cost of using public transportation to get to work.

There is an added benefit to the public transit subsidy program. The value of fare cards received in this program is not taxable. Subjects of the Labor IG investigation signed applications to participate in the public transit subsidy. In signing that document, they certified that they would abide by the terms of the program. The public transit subsidy program application forms, which these individuals sign, state:

Making a false, fictitious or fraudulent certification may render the maker subject to criminal investigation under title 18, United States Code, section 1001.

They allegedly took transit subsidies while accepting free rides to work from fellow agents, sometimes in Government vehicles.

The findings of the Labor IG's report are of particular concern to me for another reason, and this seems to be the most troubling part for me. The senior Treasury IG officials involved in fare card abuse were responsible for investigating and referring for criminal prosecution a number of other Treasury Department employees who had allegedly violated this same program called the Transit Subsidy Program.

As I said up front, the IGs must live by the rules they are sworn to enforce. When they do not, then inspectors general lose credibility. The Labor report also finds that the officials involved ''inappropriately intervened in closing [another] investigation'' of alleged PTSP abuse. This one concerned an employee at another agency who also allegedly violated the transit subsidy program. According to the Labor IG's report, the senior Treasury IG officials ''escorted'' the agent in charge of this investigation to their office ''where they discussed closing the case.'' They apparently ''instructed him to cancel'' a key interview and ''told him the case would be closed.''

Since the investigation was essentially complete and there was credible evidence to support the allegations, this meeting gave the appearance of impropriety. The Labor IG's investigators interviewed the Treasury IG officials about this meeting. The Treasury IG officials reportedly cited high agent caseloads as an excuse for their attempt to close it down. They also claimed the police at that agency ''were capable of working the investigation'' and that ''there was no fraud or loss.''

The Labor investigators make one point crystal clear: The claims put forward by Treasury IG officials did not stand up to scrutiny. The Labor IG's investigators determined that the Treasury IG's office had worked similar cases involving this agency's employees in the past. They found that special agents in the Treasury IG's office had a typical caseload of 15 to 16 cases and not the usual 30 caseload claimed by one of the subjects of this investigation.

I understand the employee involved in these allegations of public transit subsidy program violations was given a

proposed notice of removal on June 18, 2008. This agency is trying hard to crack down on such violations. This should be a wake-up call for Mr. Schindel. The abuse of the public transit subsidy program alleged in the Labor IG's report constitutes, at best, misuse or abuse of public moneys and, at worst, outright theft.

There is one more very disturbing finding in the Labor IG's report I should highlight. The Labor report ''questions the judgment'' of the senior Treasury IG officials for their alleged involvement in the reinvestigation of another employee misconduct case. This particular investigation was originally conducted by the Treasury IG for Tax Administration or TIGTA. Once again, this investigation was referred to an outside agency to ensure greater independence.

According to the Labor report, the TIGTA investigation determined that the Treasury IG agent ''misused his position, his issued vehicle, and made false and misleading statements'' during the course of the investigation. For a Federal law enforcement officer, making false statements during an investigation, as alleged, could be a career-ending mistake. As chronicled in the Labor IG's report, the senior Treasury IG didn't like the TIGTA's findings and wanted them changed. The Labor IG's report is very clear in stating that the only reason for the reinvestigation was to change the findings of the original Treasury IG for Tax Administration investigation. The Labor IG report concluded:

> The appearance is that the sole purpose of intervening in the aftermath of [the Treasury Inspector General for Tax Administration's] investigation was to mitigate [the] findings, particularly by undermining [the inspector general's] apparently well supported finding that . . . [the agent involved] . . . had made false statements.

The report goes on to say:

> The evidence suggests that TIGTA's findings were correct. It is clear that the only purpose of the reinvestigation . . . was to change the findings of the investigation so [the agent involved] would not have a Giglio issue.

The person involved in this case was suspended for 10 days 2 years ago. The Labor IG also questioned the leniency of the agent's punishment, noting that misuse of a Government vehicle alone normally carries a 30-day suspension. The Treasury Inspector General for Tax Administration also alleges that the legal counsel to the Treasury IG may have been involved in an attempt to quash or alter TIGTA's final report of investigation. TIGTA provided a document which indicates that the Treasury IG's legal counsel ''disagreed with the results of the investigation.'' He ''expected a draft ROI'' and ''asked if the Final Report of Investigation could be changed.''

Fiddling with these kinds of reports ought to raise a lot of questions among people in authority about whether things are being done right.

He was informed by the agent in charge that TIGTA ''did not submit draft ROIs and would not make any changes to the final ROI.'' The legal counsel denies these allegations.

The Labor IG also found the legal counsel's ''advice to the DOT-OIG questionable regarding the investigation.'' The Labor IG reached this conclusion because the legal counsel had listened to the tape-recorded interview, during which the subject allegedly ''made a false statement under oath to the TIGTA agent.''

The three substantiated allegations I have laid out, which are presented clearly in the Labor IG's report, are each disturbing in their own right. But if you take them all together, they paint a truly awful picture of what is going on in that office. This report is the result of an independent investigation conducted by professional law enforcement officers. The results of this investigation demand serious, thorough, fair, and prompt action. I met with Acting Treasury IG Schindel on March 13 to review this matter. He assured me he would take decisive action to clean up this mess. More recently, I was told the Acting Treasury IG is wrestling with new allegations. Addressing the Department of Labor IG report must be a first priority to show us in Congress that he is carrying out his responsibilities. He needs to sink his teeth into that material and close it out once and for all. In a letter on May 30, I asked the acting inspector general again to proceed with his review of this matter ''as quickly as possible.'' I also insisted it be done by the book, ''consistent with all applicable rules and regulations.''

I call on Acting Treasury Inspector General Schindel to keep his word. That is all I ask, just keep his word, do what he told me he was going to do. I want him to stick to his repeated assurances—in his letters of February 15 and February 29, at our March 13 meeting, and again in a letter of June 2. I expect no more and no less.

Indecision is costing the taxpayers money. To date, these officials have collected 3 months' worth of paid administrative leave. They are senior executives earning top dollar. Their administrative leave has already cost the taxpayers about $90,000, and the number is climbing. Continuing mismanagement and indecision in the Treasury IG's office is wasting precious taxpayer dollars. Acting IG Schindel has a responsibility to show he runs a first-class inspector general's office, one that is beyond reproach. He cannot operate effectively as an IG until he gets his own house in order. His job is to deter, to detect, and report waste but not to do it himself.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

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

SUPPLY AND DEMAND

Mr. ALEXANDER. Mr. President, I have received 600 e-mails and letters from Tennesseans in response to a request I put out asking them to share their personal stories about high gas prices. It has been my practice each week to put a few of those into the CONGRESSIONAL RECORD to remind my colleagues and to remind our country that we understand that people are hurting. Tennesseans are hurting in their jobs, in their families, and in their homes. Mr. President, $4-plus gasoline is a big problem for Tennesseans.

Today, I wish to submit for the CONGRESSIONAL RECORD five more letters from among the nearly 600 that I have received, and I ask unanimous consent that following my remarks these letters be printed in the RECORD.

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

(See exhibit 1.)

Mr. ALEXANDER. The first comes from Christy Long in Maynardville, TN. She works at the East Tennessee Children's Hospital in Knoxville, but she is worried about the cost of her commute. She is a diabetic. She is having trouble paying for her insulin shots due to the rising gas prices. She says:

> Gas for work or insulin to live. That is the decision I have had to make several times daily.

James Edwards from Charlotte, TN: James drives a rural route for the Postal Service, and he uses his own car, but the $26-a-day allowance doesn't cover the gas he uses anymore. He says that since the 10-percent ethanol mandate, he gets less mileage and has to use more gas. His wife's 40-mile commute to and from work every day is also cutting into their budget.

Kaye Nolen in Dyer, TN: Kay used to drive across the country once a year to see her family in Illinois, Utah, and New Mexico, but can't afford to do that this year. She says she is afraid that she will not be able to spend Thanksgiving with her family this year and that she will not be able to afford gas to make it to work if the prices keep going up.

Ruthann Booher of Crossville, TN: Ruthann and her husband have had to make significant cuts in their driving and grocery buying because of escalating costs. Her husband, who is 62, is now considering quitting his job at Wal-Mart and drawing Social Security since driving to work is so expensive. They can't afford the payment on a new car with better mileage.

Brenda Northern in Walland, TN, which is in the same county in which I live: Brenda is 60. She can barely afford to drive to visit her mother, who is 79 now, and it is getting harder and harder to make all of her payments. Her

husband has to use diesel for his truck because he moves mobile homes for a living and diesel prices keep going up too.

She says: I just do not know how we are going to make it.

I want Christy and James and Kaye and Ruthann and Brenda to know that I believe Senators on both sides of the aisle care about this matter, understand what is happening, and are ready to deal with it. I know on the Republican side, here is what we believe: We believe the answer to $4 gas prices is to find more and use less; that is, find more oil and use less oil.

Economics 101 taught us the law of supply and demand. The problem today fundamentally—and most Americans understand this; Americans know this—our problem is our supplies worldwide are not growing as fast as our demand worldwide for oil, and so the price of gasoline is going up. So if we had more supplies, and if we used less oil, the price of gasoline would go down. So we say on the Republican side: Find more, use less.

There seems to be a lot of agreement on both sides of the aisle about the using less part. For example, last year, the Senate did the most important thing it could do to reduce our dependence on foreign oil by passing higher fuel efficiency standards that said that cars and trucks had to be up to 35 miles a gallon by 2020. We did that together, Republicans and Democrats.

We on the Republican side are ready to try to make plug-in electric cars commonplace. I had a TVA Congressional Caucus hearing on that the other day in Nashville. Major car companies such as General Motors, Toyota, Nissan, and Ford are making plug-ins that are going to be available next year. TVA and other utilities have plenty of extra electricity at night to plug in, so literally you can plug your car in at night for 60 cents and fill it up with fuel instead of $70 worth of gasoline. I believe tens of thousands of Tennesseans and millions of Americans are going to be doing that.

If we set as our goal and take all the steps we need to take in the Senate to make plug-in electric cars and trucks commonplace, we could use less. Many estimates from General Motors and others is that just the plug-in electric vehicles would cut our imported oil by one-third, which is now about 12 million barrels a day. That is a significant reduction.

We can use less oil if we have a crash program in advanced biofuels. There is a lot of concern about ethanol and its effect on food prices. Well, we can grow a lot of crops that we don't eat such as switchgrass, for example, and with more research on cellulosic ethanol we can use less oil.

The other half our strategy to lower gas prices is finding more. That is where we have a difference of opinion. It seems that the other side of the aisle wants to repeal half the law of supply and demand. It is a new form of economics. Maybe we could call it ''Obama-nomics'' or some other name. But we say: All right, we agree on using less; now let's talk about finding more. What about, for example, allowing other States, such as Virginia, whose legislature says it wants to, to do what Texas, Louisiana, Mississippi, and Alabama do, which is to explore for oil offshore. We have a lot of it. We permitted an enlargement of that in the Gulf of Mexico a couple of years ago. Already the money is beginning to come in from the bids, and 37½ percent of the money goes to the States for their use for education or to nourish their beaches or whatever, and one-eighth goes to the Land and Water Conservation Fund.

The Presiding Officer and I both were Governors of our States. Neither one of us was fortunate enough to have an ocean on our State, so we don't have any potential for offshore drilling. I can't speak for the former Governor of Nebraska, but I can for Tennessee. If we had the opportunity in Tennessee to put oil and gas rigs 50 miles offshore where we couldn't see them and explore for oil and gas, and keep 37½ percent of the revenue and put it in a fund for our universities to make them among the best in the world, and to keep taxes low, and to use the money for greenways or to nourish the beaches or for other purposes, we would do it in a minute. I would think sooner or later Virginia will say they would like to do that. Maybe North Carolina will. Maybe Florida will.

Our proposal is simply, if the State wants to do it, the State can do it. No one is saying Virginia must do it or North Carolina must do it. It simply gives them the option, and it gives us more American oil and more supply to help stabilize and bring down the price of $4 gasoline.

But Senator OBAMA and most of the Democrats on the other side of the aisle say: No, we can't. No, we can't to offshore drilling. No, we can't to oil shale, which is in four Western States. There is, conservatively speaking, according to the Department of the Interior, 1 million barrels a day that we could get from offshore exploration and 2 million barrels a day that we could get from oil shale. If we added 3 million barrels a day to our production in the United States, we would increase by one-third the production that we have in the United States. We would be making more of our contribution to the world supply of oil.

We are the third largest producer of oil in the world. Why should we go begging the Saudis to drill more when we can produce more ourselves. That is part of it: Find more, use less.

So we need to come to some conclusion. We want a bipartisan result. We know in the Senate we have to get 60 votes to make anything happen. But I would be hopeful that the Democratic leadership, which is in charge of the agenda, would allow us in July to bring up these matters and act like a Senate. Let's vote. Let's debate. Let's talk about ways to use less. We could find substantial agreement, whether it is on plug-in vehicles, research for advanced biofuels, or conservation.

Senator WARNER has suggested that the Federal Government ought to use less as a good example for the rest of the country. That is a good idea. Senator MCCAIN and others have lots of good ideas as well.

Let's talk about finding more, too, for gasoline in terms of offshore drilling or in terms of oil shale. We can leave drilling in Alaska out of the discussion if that keeps us from having a bipartisan agreement, although it is the fastest way to get 1 million new barrels of oil a day. Let's put it aside for just a moment and say we want to work across the aisle to get a bipartisan agreement. We know we can't reach that agreement with ANWR included, so we will put that aside for the moment. But can we not as a Senate, in a bipartisan way, agree that we should be finding more and using less and not be saying when it comes to offshore exploration, no, we can't, and not be saying when it comes to oil shale: No, we can't. When Senator MCCAIN says we need to double our number of nuclear plants, we can't say that we have enough clean, carbon-free electricity to deal with clean air, global warming, and plug-in cars, but from the other side comes: No, we can't. We cannot say ''no, we can't'' to finding more if we want to bring down $4 gasoline prices.

So I say to Christy, James, Kaye, Ruthann, Brenda, and the 600 Tennesseans who have written me about $4 gasoline, over this Fourth of July recess, a good thing to say to your Members of the Senate and Members of Congress is: Find more and use less. Yes, we can find more. Yes, we can use less. Yes, we can bring down the $4 price of gasoline.

Some have said it will take 10 years. Well, President Kennedy didn't shy away from asking us to take 10 years to go to the Moon. President Roosevelt didn't shy away from putting in the Manhattan Project to split the atom and build a bomb to win the war even though he knew it would take several years. What is wrong with it taking several years? Are we supposed to sit here and let our 2-year-old grandchildren have the same energy crisis to deal with 10 years from now that we have today? Leadership is about looking ahead. It might take 1, 2, 5, or 10 years, but the time to start is today. The way to do it is working across the aisle. The formula for it is economics 101: More supply, less demand, find more, use less. Today, the Republicans are ready to do that. We are ready to do both, find more and use less. But the Democrats are not.

Mr. President, I yield the floor.

EXHIBIT 1

1. Christy Long, Maynardville, TN—Christy works at the East TN Children's Hospital in Knoxville but is worried about the

cost of the commute. She is a diabetic and is having trouble paying for her insulin shots due to the rising gas prices: ''Gas for work or insulin to live . . . that is the decision that I have had to make several times daily.''

2. James Edwards, Charlotte, TN—James drives a rural route for the Postal Service and uses his own car, but the $26-a-day allowance doesn't cover the gas he uses anymore. He says that since the 10% ethanol mandate, he gets less mileage and has to use more gas. His wife's 40–mile commute to and from work everyday is also cutting into their budget.

3. Kaye Nolen, Dyer, TN—Kaye used to drive across country once a year to see her family in Illinois, Utah and New Mexico, but can't afford to do that this year. She says she is afraid that she won't get to spend Thanksgiving with her family this year and that she won't be able to afford gas to make it to work if prices keep going up.

4. Ruthann Booher, Crossville, TN—Ruthann and her husband have had to make significant cuts in their driving and grocery buying because of escalating costs. Her husband, who is 62, is now considering quitting his job at Wal-Mart and drawing Social Security since driving to work is so expensive. They can't afford the payment on a new car with better mileage.

5. Brenda Northern, Walland, TN—Brenda is 60 and can barely afford to drive to visit her mother (who is 79) anymore, and its getting harder and harder to make all her payments. Her husband has to use diesel for his truck because he moves mobile homes for a living and diesel prices keep going up too. She says, ''I just do not know how we are going to make it!''

Hi my name is Christy Long, the gas prices are very hard to deal with. I work 40 hrs a week at East TN Childrens Hospital in Knoxville TN and make decent money. However, between my health insurance, daycare, school fees, groceries, my medicine because I am a diabetic on insulin, plus my house payment, electric, water etc . . . Then buy gas for me to get back in forth to work on . . . Humm lets just say that I wished I could have government benefits for the other stuff so that I could afford my gas. My husband and I whom he works 60 hrs a week at his job have considered me quitting work and staying home due to the fact that we can not afford the gas for me to get back and forth to work, plus eat, my medicine, his medicine and just to live. It is really sad when you have to pick do I want to buy my insulin prescription for $60 this month or do I want to buy $60 worth of gas so that I can get back and forth to work for a week. That has happened a couple of times in the last 6 months to my family. Luckily I have had a good doctor that has given me samples several times to get me thru. Because as anybody would know without my insulin I can not live.

You see my story is not my family can not go on vacation this year or anything, my story is that I do not make enough money to live and work. It is one or the other. . . Gas for work or insulin to live . . . That is the decision that I have had to make several times lately.

Sincerely,

CHRISTY LONG,
Maynardville, TN.

The high gas price is having a great impact on me and my family. I work for the U.S. Postal Service. I have a rural route, which means I use my own vehicle.

I am responsible for the maintenance, insurance and fuel for my vehicle. Even though I receive a vehicle allowance to operate my vehicle for the U. S. Postal Service, it is not adequate.

My allowance is $26.60 per day. Since I am continuously running, starting, stopping my vehicle, I go through about 5–6 gallons of gas a day. At $3.87 a gallon (this what I paid yesterday) and having to fill up my vehicle every other day, it is costing me about $25.00 per day (that's $125.00 per week or $500.00 per month.

That is only for the fuel. I also have to replace brakes, tires and other items for frequently because of the nature of the job I perform.

My wife works at Fort Campbell, Ky and we live about 40 miles from her work. The cost for gas for her runs about $120.00 per week.

Since it was mandated to add 10% ethanol to gasoline, we get less miles per gallon so this means we use more gas.

Since there is a greater price we pay for gas, everyday life (food, utilities, etc.) is more expensive. I served over 21 years in the military and I am proud of this service. America is noted for its compassion for helping other nations, however, we are doing our own country a disservice by not taking care of our own.

This my story and I hope with enough stories like this we can convince the powers that be we need to take care of business soon. By this, I mean do more drilling and build more refineries in America and stop depending on other countries for our own survival.

Thanks for your concern and taking your time to address this issue.

Sincerely,

JAMES R. EDWARDS, SR.,
Charlotte, TN.

Dear Sir, You asked how the high gasoline prices are hurting me?

I can't afford to drive to Moline, Illinois to see my three daughters nor to see two granddaughters graduate from high school. I can't drive to Utah to see my Dad and sister. I can't drive to New Mexico to see my mother. I can't even make the trip to Branson, MO to help my elderly Aunt and Uncle every other month. I used to make the round trip drive from TN to MO to NM to UT to MO to TN once a year. Not now! Can't afford the gasoline!! I used to go to IL to spend Thanksgiving with my daughters. I don't think I can afford that trip this year.

I am barely affording the gasoline to go to work four days a week, shopping once a week and to Church on Sunday. That all costs me around $48 a week. Soon I will have to quit my job because I can't afford the gasoline to drive the 28 miles a day. If I quit my job, what do I have left?

Goodness sakes! When will this all end? I can't afford to go to work and eat one meal a day!! I am willing to work, if I have a way to get there!

Thanks for asking my opinion on this horrible state of affairs.

Sincerely,

KAYE NOLEN,
Dyer, TN.

DEAR SENATOR ALEXANDER: My husband and I have lived in Crossville, TN for 19 years. Never before have we had the problems making ends meet as we are having now. My husband works full time at WalMart. He doesn't make a whole lot of money, but we were getting by. With the gas prices skyrocketing day by day and the trickle down effect on everything else, we have had to really tighten our belts. I used to be able to go to the store a few times a week for groceries that we would run out of. Now I only go once a week. If I have forgotten something, or we run out, we have to do without until I can go the next week. The price of groceries is another factor and I realize it is mostly because of the cost of transporting the goods to the stores. It is also the cost of harvesting the crops due to the gasoline used for farm equipment. It's hurting all of us.

My husband is 62 and is now seriously considering drawing his Social Security and working 3 days a week. We would have more money, but he would have to take a reduced amount instead of waiting until he's 66 and being able to draw the full amount. We have also considered getting a more fuel efficient vehicle, but can't afford to make the payments. We're actually caught between a rock and a hard place. And there will be no vacation for us this year, or any year the fuel prices are this ridiculous. We will just have to stay home.

Thank you for the opportunity to vent my frustration. I think you are doing a great job for the people of Tennessee and I think you would make a great president.

Sincerely,

RUTHANN BOOHER,
Crossville, TN.

From: Northern, Brenda
Sent: Mon 6/16/2008 12:54 PM
To: Alexander, Senator (Alexander)
Subject: My family's Crisis!

Sen. Alexander, I appreciate the opportunity to address the issue of increasing Gas & Diesel prices on my family in particular, even though everyone is experiencing the same problem.

I fill my car up each week and the price just keeps going up, 2 weeks ago it was $53.00, the next week $61.00, and this week $64.00 and my tank was not all the way empty either time.

I drive to work the supermarket and stop by to check on my Mother who is 79 now, and go to Church. I am 60 years old and would love to have the opportunity to spend more time with my Mother, my Husband, Children & Grandchildren, but Gasoline keeps rising, which makes everything else more expensive, so we have trouble meeting our payments, and no recreation at all.

My Husband uses Diesel in his vehicle and also his Work Trucks, and now that cuts down on his profit! He is just a small business man who moves mobile homes, this is what he has done for 44+ years, and makes less and less.

We are just simple Christian people with families trying to make a living on two paychecks, we're a prime example of those who are rapidly approaching retirement age and yet will not be able to retire and have a few enjoyable years together here on earth. I just do not know how we are going to make it! I would love to spend time with my family, enjoy the few years I figure I have left without having to struggle just to buy gasoline to be able to get to work to get a payday that buys less and less of the necessities of life.

One thing that would help save on gasoline would be, make the work week 4 (10 hour shifts) instead of 5 (8 hour shifts).

Since we are already there 2 more hours would not matter if it would save us a day's supply of gasoline getting there and back, also would save the companies in electricity etc.

Sincerely,

BRENDA NORTHERN,
Walland, TN.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, if I may, I will inform Senators as to where we are on the housing bill. Most of my colleagues know that we voted for cloture yesterday with a substantial vote of 83 to 9—not something that occurs with great frequency, getting that kind of strong, bipartisan support for the housing bill, which Senator SHELBY and I have spent weeks crafting, with the support of our members on the Banking Committee. The most recent vote was 19 to 2, on a committee with 21 members, where we ended up with strong, bipartisan support to deal with the foreclosure crisis in this country, to reform government-sponsored enterprises, and to provide for an affordable housing program. That is not to mention other provisions that came out of the Finance Committee, under the leadership of Senator BAUCUS and Senator GRASSLEY, to deal with mortgage revenue bonds, tax incentives, first-time home buyers, and counseling services. As well, we have expanded the numbers to assist individuals who are seeking to stay in their homes and are trying to achieve workouts with lenders at a cost that is affordable for them.

There are many aspects of this important bill. There is no more important issue before us today than dealing with our economy. One need only look at the headlines of the major newspapers in the Nation this morning saying that consumer confidence is the lowest it has been, according to some, in 40 years. The prospects people see for themselves and their families are very low. That in itself is a source of great concern, and it ought to be to every Member of this body—that our fellow citizens don't see a very bright future for themselves and that we need to take some steps on energy and health care costs and housing. We have 8,400 people every day filing for foreclosure. That ought to alarm everybody. We need to take some steps to allow people to work this out and stabilize this cascading housing problem.

When you have home values falling by the hour and you have problems with the lack of new starts, unemployment rates occurring, with it spreading to student loans and commercial lending, this problem has at its center the housing crisis and foreclosure crisis all across our country, and it is not localized in one or two areas.

The fact we have been able to put together a major proposal that addresses this issue, and yet as we stand here, I am stymied because one Senator has decided this bill is not going to go forward—one—because it takes unanimous consent for us to move to the bill.

We already worked out a number of amendments on this bill. People have ideas they want to bring to it, and I welcome those. We wish to get to those ideas, even take the agreements we have reached with Republican and Democratic Senators. One Senator is saying: You can't do that. Again 8,000 more people are about to lose their homes today, but one Senator has said: No, I am sorry, but my bill is more important than the 8,000 of you yesterday or the 8,000 tomorrow who will come up.

We are trying to get this bill done. There are several other Senators, Democrats and Republicans, who have ideas they wish to bring to this debate. Some we can agree to, some we cannot. But they deserve a debate and a vote on their idea. I welcome the opportunity to have that conversation with them. In many cases, we will try to work them out if we can. Where that is impossible, then this body has a right or obligation to vote them up or down, whether or not to accept those ideas.

We had very constructive conversations with the House of Representatives. I am very grateful to Speaker NANCY PELOSI who has welcomed our work here as we try to work out the differences between the House-passed bill and our bill, which are not substantial, in my view. We ought to come to some agreement on those differences. Congressman BARNEY FRANK from Massachusetts, chairman of the Financial Services Committee in the House, has been working with us so we can resolve these differences. I had hoped before we left for the Independence Day recess we would have been able to send a bill to the President for his signature. What greater signal could we send, as I said yesterday, to the American people than this Congress—highly divided, partisan beyond belief in too many cases—was able to come together on an issue that affects so many of our fellow citizens. We are this close to doing it. But I cannot offer an amendment today or invite Members to resolve their differences because one Senator has decided we should not do anything except his bill.

Unfortunately, that is how this institution works too often. As people know, I have been sitting here patiently for the last day and a half, along with Senator SHELBY, trying to resolve these matters. We have to wait until the end of this day. We will go another 5 or 6 hours doing nothing, sitting around in quorum calls and listening to speeches until we run out the clock and then have an opportunity to get to these issues.

I know there are people who care about Medicare. They care about the supplemental appropriations bill. People care about the Foreign Intelligence Surveillance Act. The majority leader has laid this out in clear, concise terms that we need to deal with these matters before we leave, and we are going to do it the hard way or the easy way. But it requires cooperation. It requires people being able to put aside their differences and let us get to the matters before us.

No other issue is more important. I apologize for getting emotional about this issue, but it is awfully difficult to go back home when people are facing gasoline prices that have gone through the ceiling, they are watching their fellow citizens lose their homes, the values of theirs, if not losing them, are declining, joblessness rising in the country, and they are wondering why we cannot manage to get anything done on their behalf.

While we cannot solve every problem, here we have a collection of bills worked out in one package, crafted by Democrats and Republicans coming together, and we cannot even get to debate the issue or bring up ideas other Members have on how we might improve this legislation.

I wanted to inform my colleagues as to why we have not been able to get much done here. It is not for the lack of leadership by HARRY REID. He has been leading and asking the other side to work with us to get this job done. As he said last evening, there are moments, we all understand, when partisan politics take over. There are other moments when you have to set that aside, and this is one of those moments.

So my urging at this moment at 11:15 this morning is, would this one Senator reconsider what he is objecting to and allow us to get to this matter. That Senator has had four different opportunities to vote on his bill. I happen to support his bill, by the way. I think I am a cosponsor of it. If not a cosponsor, I certainly have been supportive of it. I also understand there are other issues with which we have to grapple, and the housing issue is a major one for us.

We are right on the brink. In a couple of hours, we can resolve this matter, vote on it, send it to the House, and hopefully they will agree, and send that bill to the President. We can do that literally in the next 2 or 3 hours if I can only get an opportunity to raise these matters on the floor of the Senate.

I am deeply grateful to the majority leader who has done everything conceivable to make this happen. What we are lacking is the kind of cooperation required to get this bill done. This is not a bill I would have written on my money, nor would Senator SHELBY. There are 100 of us here. We all have our ideas on how we would frame these matters. But we are elected to a body that includes 99 other Members, and you have to sit down with each other and work to achieve anything. When you refuse to do that, you make it impossible to step forward.

My urging at this hour of the morning is let us get to this bill, allow these Members—Democrats and Republicans—to have their ideas brought up, resolved, or voted on so we can conclude this work, send it to the House, and hopefully to the President of the United States for his signature.

Mr. President, I ask unanimous consent that the time the Senate spends in quorum calls during today's session count toward the time postcloture.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

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

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

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. CRAIG. Mr. President, I am filing at the desk today an amendment to the emergency supplemental that will be coming over, or is already here, from the House to reinsert a provision that the Senate put in our version of the emergency supplemental before it went to the House for their consideration. This amendment includes a 1-year funding for the Secure Rural Schools and Community Self-Determination Act. What that simply means is timber-dependent communities and school districts across the country would receive their level of funding for one more year until such time as we can fully reauthorize the act.

The Senate Finance Committee, in the extender legislation, has a reauthorization in it. But we don't know whether that will come immediately following the Fourth of July recess or some time into the summer. Here is the reality of the emergency funding about which we are talking.

There are 775 counties and 4,400 school districts in 42 States that is now making critical hiring decisions for the coming school year that will start at the end of August. These school districts need this money. It is quite simple. They have no other way of raising the resource that is now terminated as a result of our inability to move in the appropriate fashion.

What we are talking about is 9 million schoolchildren who will be affected. In my State, numerous school districts and potentially several hundred teachers are getting their termination notices because there simply is no money to hire or to continue to hire them. What are we talking about? A timber-dependent county, a county where 90 percent of its landscape is owned by the Federal Government and 10 percent is owned in fee simple and pays taxes into the school district, and they have no possible way of raising enough revenue when a third or a half of the revenue came from those public lands originally through timber sales.

Senator WYDEN and I some years ago created this legislation. It is known as Craig-Wyden or Wyden-Craig. We have helped these school districts, and we are fumbling here trying to accomplish that. We put it in our version of the supplemental. Now the supplemental comes back. It is not a pure document. It is not exclusively a military funding document. It has veterans money in it. It has emergency money in it for FEMA to handle the disastrous flooding going on in the State of Iowa.

In my State of Idaho, in Clearwater County, we have a disaster. It isn't flooding. It isn't the Clearwater River over its banks. It is a school district that is dramatically having to diminish the quality of education because this Congress has not acted in a timely fashion, and we simply roll over and say: Oh, well, we will probably get it done in July, but then again it might be August.

It is now we must act because in August, that school will be back in operation and that schoolteacher who was teaching some level of academics in that high school or grade school will be gone because the money has not been replenished. I call that an emergency. I call that a need to address the supplemental.

I have talked with the chairman of the Appropriations Committee, I have talked with the ranking member. They, too, view this as a crisis. I know we all have our priorities, but in this case Senator CRAPO, Senator SMITH, Senator DOMENICI, Senator STEVENS, Senator MURKOWSKI, Senator BENNETT, and others agree with me. And there are numerous Senators on the Democratic side of the aisle. I have spoken a few moments ago with Senator WYDEN. The State of Oregon will be in crisis if we don't resolve this in a reasonable fashion.

This is simply a 1-year extension of funding at current levels. It is not a new reauthorization. It represents about $400 million in the chairman's mark that moved out of here before. So this amendment, as I speak, will be filed at the desk, and I would hope, in our effort to move legislation and finish the supplemental, the emergency supplemental, that we also recognize there are some domestic emergencies here at home, such as the flooding on the Mississippi, such as tornado-ravaged areas, such as school districts having to fire needed and necessary educators to provide for the quality of education of their children because Congress did not responsibly fund public land, Federal public land-dependent counties, and created the crisis by our inaction.

With those comments, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I ask unanimous consent that following my presentation, if there is a Republican speaker on the floor, they be recognized next, as has been the course, and that Senator BROWN of Ohio be recognized as the next Democratic speaker.

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

DEPARTMENT OF DEFENSE CONTRACTING

Mr. DORGAN. Mr. President, yesterday, there was a hearing in the Congress, on the House side, dealing with someone I have spoken about on the floor at some length, and I wish to talk about that hearing and what it means. Then, following that, I wish to speak about the bill I introduced yesterday dealing with the price of gas and oil and oil speculation.

First, let me talk about the hearing yesterday and what we learned about the Defense Department and the State Department and others dealing with this man. This man's name is Efraim Diveroli. He is 22 years old and the president and chief executive officer of a firm that was awarded $300 million in contracts by our Federal Government. So this is a guy who took over a shell corporation that his dad had, and he was awarded $300 million in Defense Department contracts. He was the president of the company at age 22. He had a vice president, though. It is not as if the company was understaffed. This is a photograph of his 25-year-old vice president, who is a massage therapist—David Packouz. He was called a masseur, or massage therapist. So these two guys ran a company in Florida that had an unmarked office door. At one point, Mr. Diveroli, the CEO, says he was the only employee and at another point it was he and his vice president, the massage therapist.

They got $300 million from the Federal Government, from the Defense Department, and they were to provide weapons and ammunition to the Afghan fighters because our Defense Department wanted to help the Afghan fighters take on the Taliban in Afghanistan. Well, here is what these folks provided to the fighters in Afghanistan—40-year-old Chinese cartridges which came in boxes that were all taped and falling apart—this is an example. They were made in China in the mid-1960s. It is pretty unbelievable. The fighters in Afghanistan said this was junk coming from this company that got $300 million in contracts from the Defense Department.

Now, I had the three-star general come to my office. I am on the Appropriations Subcommittee on Defense, and we shovel a lot of money out the door for a lot of these Defense needs, some legitimate, some not, and I had a lengthy meeting with the three-star general who was in charge of this. I said: How on Earth could you have given a contract to a company run by a 22-year-old, who had very little experience, running a shell company his dad owned, a company where his vice president was a massage therapist? This is a joke, except it is not a joke when the American taxpayers are fleeced. He gave me a hundred excuses, this three-star general did.

But all he would have had to do is go to MySpace. Pull this man up on MySpace, the president of this company, and here is what he says on MySpace.

I like to go clubbing, go to a movie. I have taken a really liking towards fine Scotch whiskey. I have had problems in high school, so I was forced to work most of my teen years.

He probably grew up a little fast.

Got a decent apartment. Am content for the moment.

Go to MySpace. Is this the CEO of a company you want to give $300 million in contracts to?

This is an outrage. So a hearing was held yesterday, and here is what the hearing disclosed. There was a watch list at the State Department. This company—these guys—had small contracts with the State Department, and the State Department had compiled a watch list of 80,000 individuals and companies suspected of illegal arms transgressions and other things, including this company. Well, the fact is, the Defense Department never checked the State Department. Contracts have been pulled from this little company, but the Defense Department never checked, so they give them a $300 million contract, or a series of contracts, worth $300 million.

The reason they say it didn't show up is because they don't check on contractors that maybe are bad contractors if the contract is less than $5 million. That is, apparently, an asterisk.

I mean, I don't understand this at all. Government officials failed to review several of these contracts from this little company that had been canceled or delayed. They never raised red flags because they fell under the $5 million contract value that was the warning threshold. The contracting officer with the Army Sustainment Command had overruled a contracting team that raised concerns about this company. They said there was substantial doubt, but nonetheless the company got the contracts. Listen, this is shameful. We ought to do—and, yes, we in the Senate as well—ought to do a detailed investigation. We should bring people here under subpoena, if necessary, to find out who made these judgments and why they are still working for the Federal Government. Why aren't they long ago gone from the Federal payroll? This is not the end of it or all of it. I have spoken about dozens and dozens of contracts that are similar to this.

At any rate, yesterday, this hearing occurred in the House. I commend Congressman WAXMAN, who has been doing some of the most significant work in the Congress in investigating this. We need to investigate this on the defense spending side as well, those who appropriate this funding. This is shameful, and I think everybody involved in it ought to be embarrassed. We are shoveling money out the door to support the war in Iraq and Afghanistan.

I have shown pictures on the floor of the Senate of one-hundred dollar bills wrapped in Saran Wrap the size of bricks, and the guy distributing that cash in Iraq said he told contractors our motto was: We pay in cash, you bring a bag. It was like the Wild West, he said.

You think money isn't wasted? You think there isn't stolen money over there, when you are distributing money out of the back of a pickup truck and we are airlifting one-hundred dollar bills on C–130s, flight after flight, full of cash?

This is unbelievable what is happening with this contracting abuse, and this is one, small example.

I think all those involved in it ought to be brought before congressional committees and that we demand answers from them. Who is responsible, who is accountable on behalf of the American taxpayer? If they can't answer, they ought not be on the public payroll.

That takes care of my need for therapy to talk about this issue. It is almost unbelievable that the American taxpayer, en masse, is not gathering outside this Capitol saying, when we hear this kind of thing, we are outraged. So let me be outraged on behalf of them and say this cannot be allowed to continue.

SPECULATING ON OIL AND GAS

Mr. President, I came to the floor to talk about the issue of the price of gasoline. I had a guy in my office the other day that was the president of one of the larger corporations and this company was engaged in trading and all these issues. He was a fast talker. I mean, it was unbelievable to me. When he finished talking, I was out of breath. He was one of these guys who talked and talked and talked. His point was: Look, everything is working fine. The price of oil, the price of gas, that is what the market says it is. I said: Well, it appears to me there are substantial amounts of speculation. Over a period of time in this world we have seen some dramatic growth in speculation in certain areas. When it happens, the markets break and you have to come back and herd the speculators out and have markets available for the legitimate transactions.

This person said: Speculation, are you kidding me? These are normal transactions on the commodities market, the futures market for oil, as an example. There is supply, demand, and people are involved. I said: Well, tell me this, if you would: What has happened in the last 15 months? Tell me what has happened with respect to supply and demand that justifies doubling the price of oil in the futures market? Can you tell me? Then he spoke for 45 minutes, almost uninterrupted, and had not answered the question.

I said: That makes my point. At the end of this meeting, you can't answer the question because nothing has happened in the last 15 months that demonstrably alters the supply-and-demand relationship or that justifies what has happened with the price of oil. Nothing justifies doubling the price of oil in the last 15 months. The only conclusion you can come to—and many have and I certainly have—is that we have a carnival of speculation in the futures market by a lot of big-time speculators interested in making money. They do not want to own oil or take possession of oil. They do not want to use oil. They wouldn't be able to recognize oil at first blush. They wouldn't even be able to lift a 30-gallon drum of oil. They just want to make money speculating on oil.

So if we have a bunch of speculators in this carnival of greed who rush into these markets and drive up prices well beyond what the fundamentals would justify, it breaks the market. If the market is broken, we have a responsibility to set it right. When the commodities market for oil was established in 1936 by legislation, Franklin Delano Roosevelt said we have to be careful to have the tools to stop the speculators from taking over these markets. There is a specific piece in the 1936 act that talks about excessive speculation.

There is excessive speculation in the marketplace now, and it is running up the price of oil and gas. It is hurting every single American family, it is damaging this economy, it is dramatically injuring industries—such as airlines, truckers, farming, and others. The question is, What should we do about it?

Should we sit here somewhere in a crevasse between daydreaming and thumbsucking and decide to do nothing? Or should we finally decide we have to take some action when a market is broken?

Let me go through a couple charts. I have used them before so it is repetitious, but it seems to me it is useful repetition in describing a very serious problem.

Here is what has happened to the price of oil. There is no event in here that suggests this should be the price of oil. You double the price. There is nothing in here that justifies doubling the price. The fact is, people are driving less in this period. There were 4.5 or 5 billion fewer miles driven in this country in a 6-month period; 4.5 to 5 billion fewer miles driven, less gasoline used. That means lower demand. At the same time, in the first 4 or 5 months of this year, we saw crude inventory stocks rise, not fall. If inventory is going up and demand is going down, what is happening to the price of oil and gasoline? It is going up? That doesn't make any sense. That is not logical. That is a market that is broken.

Let me analyze what all that means. This is what a commodity exchange looks like. This is the New York Mercantile Exchange, called NYMEX. There are a bunch of folks who trade. They come to work and do a legitimate job. They are trained to do this job, and they are trading on behalf of others. But what has changed is, instead of it being just a legitimate market for

hedging between those who produce and those who consume, wanting to hedge a physical commodity, we have now people in this market who have no relationship to this commodity.

Will Rogers described it a decade ago. He described people who buy things they will never get from people who never had it, making money on both sides. That is speculation.

Here is what some folks have said about these issues. Let me describe, first, before I describe what some other folks have said about it, the 1935 act. It says, this is the commodities act that establishes this—

> This bill authorizes the Commission . . . to fix limitations upon purely speculative trades and commitments. Hedging transactions are expressly exempted.

The point is the underlying bill authorizes the regulator, the Commodity Futures Trading Commission, to fix limitations on purely speculative trades. That is exactly what the Commission is supposed to do. But the Commission has largely taken a vacation from reality. It seems to have no interest in regulating. I am talking especially about the chairman and those who control the Commission.

Here is Fadel Gheit, 30 years as the top energy analyst for Oppenheimer & Co. He testified before our committee. I have spoken to him a couple times by phone. Here is what he says:

> There is absolutely no shortage of oil. I'm convinced that oil prices should not be a dime above $55 a barrel. I call it the world's largest gambling hall. . . . It's open 24/7. . . . Unfortunately, it's totally unregulated. . . . This is like a highway with no cops on the beat and no speed limit and everybody's going 120 miles an hour.

I encourage my colleagues, if you want to understand what is happening in this market, call Mr. Gheit. He has been involved as an energy trader with the large companies. He will give you an earful. I have had the opportunity to hear him not only in committee, but I called him as well and had a conversation about speculation.

The president of Marathon Oil Company: ''$100 oil isn't justified by the physical demand of the market.''

I am going to have a hearing this afternoon with the head of the Energy Information Administration, EIA. I fund this agency in my appropriations subcommittee—Mr. Caruso heads it. I wish to show what the EIA has projected on all these occasions for the price of oil and gasoline.

In May of last year, they projected this yellow line. That is where the price would go. In July of last year, they projected this yellow line. In September, they projected this. Do you see what the momentum is? In terms of what they are projecting, in every case they are demonstrably wrong—not just wrong by a little, wrong by a lot.

We spend over $100 million for this agency to get the best and brightest, to determine as best they can what is going to happen to the price of oil. They have always believed the price is essentially going to remain about the same or go down. The price, however, has gone way up. Why? Because unbridled speculation exists in this market with speculators driving up these prices.

Despite that, the EIA testifies and has testified repeatedly: They see some speculation but not very much.

If they believe this represents the fundamentals in the marketplace, how on Earth could the best estimators in an agency we spend $100 million a year on—how could they be this wrong? There is something fundamentally wrong with that piece.

Finally, 2 days ago, the House released a report that was done by a House subcommittee that talked about the explosion of speculation on the futures market. It went from 37 percent speculative trades in 2000 to 71 percent of the trades now that are ''speculation.''

I describe all that to say I have introduced legislation. I am talking to Republicans and Democrats in the Senate, hopeful of garnering cosponsors to move this legislation that addresses this issue by saying to the Commodity Futures Trading Commission: You have the authority to do the following, and you should do the following, just going back and reading the underlying law that created you. No. 1, identify those trades that represent legitimate hedging trades between a producer and a consumer with a physical product in which they wish to hedge risk. That is precisely what the market was established for. Distinguish that kind of trading from all other trading which represents nonlegitimate hedging, or speculation.

Once you have determined what body of trading represents speculative trading—and it has been a carnival of greed, in my judgment, rushing and pushing up the amount of speculative trading, as I have shown—once you have done that, I suggest we impose a 25-percent margin on the speculative trading that is going on, in order to try to wring some of that excess speculation out of this market.

No. 2, I suggest the regulator have the opportunity to use their authority to either revoke or modify all their previous actions, including their ''no action'' letters, in order to shine the light on and see and regulate all the transactions that have to do with American products or trading in this country.

Strangely enough, the Commodity Futures Trading Commission itself said, for example, the Intercontinental Exchange, largely owned by American interests, that trades in London—that you can come here, you can set up an office in Atlanta, you can trade on computers in Atlanta, and we will decide of our own volition that we will not regulate you and you will be outside the purview of our sight. That is an unbelievably bad decision, and it needs to be revoked—not just that decision but so many others similar to it.

It would be nice if we would have a regulatory body that says our job is to regulate. We pay for regulatory bodies for the purpose of wearing the striped shirts; they are the referees, they call the fouls.

I think, having taught some economics in college, that the best allocator of goods and services in this country that I know of is the marketplace. Markets are wonderful. I am a big supporter of markets. But when markets are broken, the Government has a responsibility to act. We have a regulator that has been oblivious to open markets, in fact has accelerated and actually helped break them. I believe our responsibility at this point is to set this regulator straight and decide here are the conditions by which we own up to the responsibilities of the original act—allowing for legitimate trading and hedging but trying to shut down the speculation that has driven up the price of gasoline and that injures every family and every business in this country and damages the American economy.

My hope is, in the coming couple days and weeks, that Congress, and the Senate especially, will be able to consider the bill I have authored. There are other good ideas as well. I welcome all of them. But I think this is not a circumstance in which one of the options for the Congress is to do nothing. The American people expect more and deserve more and I think should get more from this Congress.

I have spoken to Senator REID and many others, who are also very interested in moving on these issues. I hope it will be bipartisan. I am very interested in having Republicans and Democrats work on perfecting these issues so we can take action very soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized as in morning business to be followed by the Senator from Ohio, Mr. BROWN, and he would be followed by the Senator from New Hampshire, Mr. GREGG.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Mr. President, I ask I be added after Senator GREGG.

Mr. INHOFE. And the Senator from Wisconsin be after Senator GREGG.

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

Mr. INHOFE. First of all, it is my intention—which I will not do right now because I know what would happen—to introduce an amendment to the housing bill that makes eminent sense. But I know and I have been told it would be objected to, so I will not do it, but I will explain it in hopes that at a later time we will be able to get this in.

The amendment I have is simply a one-page amendment. What it does, it would prohibit individuals who annually make more than $75,000 and couples making more than $150,000 from

receiving taxpayer-backed bailouts of troubled mortgages. The main provision of the housing bailout bill is a program to allow troubled mortgage holders to refinance their mortgage into a Government-insured loan through the FHA. The bill allows the FHA to take on up to $300 billion in troubled mortgages, into the taxpayer-backed program.

In this bill, as currently written, the value of an eligible loan under the FHA is $550,000. The nationwide average value of a home is roughly $200,000. The average value of a home in Oklahoma is just under $150,000.

I believe it is bad policy to put taxpayers on the hook for borrowers who took on more than they could afford and lenders who made bad loans to begin with. It is entirely unacceptable to have the Government put taxpayers on the hook for someone who qualified for a loan more than two or three times what the average American can afford.

When Congress passed the economic stimulus package, Democrats vehemently argued certain people make too much money to benefit from a handout from the U.S. Government; specifically, eligibility for the full-time stimulus was capped at $75,000 for an individual and $150,000 for couples. So this amendment says that if you are too rich to get a full stimulus check, you are too rich to get a bailout.

Another provision of the housing bill provides an interest-free loan of $8,000 for first-time home buyers and applies income limits of $75,000—there it is again—for individuals and $150,000 for couples. It is perfectly reasonable to apply those same income standards for individuals who are getting a taxpayer-backed bailout on their mortgages.

Someone with a $550,000 mortgage pays approximately $3,300 a month on housing alone—that is assuming a 30-year fixed-rate mortgage at a 6.3-percent interest rate. That comes to $39,600 a year in mortgage payments alone. According to the Bureau of Economic Analysis, average per capita income in the United States, in 2007, was $38,600; therefore, someone with a $550,000 mortgage will be spending around $1,000 more on their home alone than the average American makes in an entire year.

The Congressional Budget Office came out and warned that 35 percent of the loans refinanced through the program will eventually default anyway. CBO also highlighted the perverse incentives in this bill, noting that banks will use the program to offload their highest risk loans to taxpayers. CBO said:

> . . . the cumulative [default rate] for the program would be about 35 percent and that recoveries on defaulted mortgages would be about 60 percent of the outstanding loan amount. Those rates reflect CBO's view that mortgage holders would have an incentive to direct their highest risk loans to the program.

Washington should not be holding folks who have been responsible for their mortgage liability responsible for the irresponsible decisions of others. We should not be putting taxpayers on the hook for bad loans made by irresponsible lenders and borrowers. We most certainly should not be putting taxpayers on the hook for individuals who can afford two or three times what the average taxpayer can afford.

This is especially true when there is no guarantee the program would not have to be bailed out after the additional taxpayer dollars. There is a very good chance, in fact, that this program will require additional tax dollars; that this is just the beginning.

On June 10, the New York Times reported that the FHA—the agency we are mandating in this bill to take on the worst loans made during the subprime housing crisis—currently faces $4.6 billion in losses, four times the amount of losses than the previous year and over 20 percent of its capital reserves.

The day before the New York Times story, Reuters reported that the head of FHA, Brian Montgomery, has serious concerns about the housing legislation we are now considering:

> Some in Congress are advancing legislation . . . that could be problematic for the economy and the country.

He further said:

> FHA is designed to help stabilize the economy . . . it is not designed to be a lender of last resort, a mega-agency to subsidize bad loans.

Yesterday the Wall Street Journal reported the FHA is having serious trouble with the bad mortgages that are already on the books and will likely require an appropriation of over 1 billion in Federal tax dollars as soon as next year.

This would be the first instance of a government subsidy for the FHA since it was created in 1934.

The Journal reported:

> The FHA, which essentially is filling the void left by the collapse of the subprime market, will request a Government subsidy for the first time in its 74-year history. The agency says it will need $1.4 billion next year.

The American taxpayer, the taxpayers in my State of Oklahoma, should not be put in a position where they are ultimately responsible for the irresponsible decisions of others, and they certainly should not be on the hook for relatively well-off individuals, not to mention large lending companies that made poor financial decisions.

Lastly, let me say we are using the same standard, this $75,000 per individual or $150,000 for a joint return, that would be the same level we are using in the rest of this bill and other programs, including the economic stimulus program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

MINIMUM WAGE

Mr. BROWN. Mr. President, 70 years ago today President Roosevelt signed the Fair Labor Standards Act into law. After two decades of devastating Supreme Court opposition, a Supreme Court in those days with a similar bias against workers that our Supreme Court has today—think of Ledbetter and so many other cases they have made. But after two decades of devastating Supreme Court opposition, and 3 years after that Supreme Court declared the National Industrial Recovery Act unconstitutional, Americans finally were assured of a minimum wage, reasonable work hours, and an end to child exploitation.

Senator Hugo Black, who sat at this desk in the Senate in the 1920s and 1930s, was fundamental in this historic achievement. Black, in the early 1930s, prior to Roosevelt becoming President, had introduced legislation calling for a 6-hour workday. It was considered so radical and so controversial that the 8-hour workday signed into law by President Roosevelt was considered more reasonable and more palatable, and the Congress went along.

Black, by this time, by the time the minimum wage actually went into effect, was a member of the Supreme Court appointed by President Roosevelt. Black, in those years leading up, joined with President Roosevelt, Labor Secretary Frances Perkins, and labor leader Sidney Hillman to craft legislation that would withstand judicial challenge. It was not an easy fight, but progressives stood firm for social justice and for economic justice. They said ''no'' to worker exploitation and they created a path to the American dream for millions. As the minimum wage floor was established, other wages went up also, and more and more workers joined the middle class and as a result came out of poverty and joined the middle class. For the first time in our Nation's history, people who worked hard were assured of a reasonable standard of living and decent labor conditions.

Where is that commitment today? Today's low- and middle-income men and women have been hit hard by the failed economic policies of the last 7 years, bad trade policy, bad tax policy, all up and down. We see what has happened to our economy in the Presiding Officer's home State of Pennsylvania, my State of Ohio, from Lima to Zanesville, and everywhere in between.

With gas at $4 a gallon, rising health care costs, skyrocketing food prices, it is more and more difficult for hard-working Americans to keep pace. Now 70 years of progress is eroding. Income inequality is the worst it has been in this country since before Roosevelt, since the Depression and the New Deal gave birth to the minimum wage.

Tim, from Cleveland Heights, OH, a suburb southeast of Cleveland, used to donate to food banks, soup kitchens, and charities before his family fell on hard times. He never thought he would need that help from others. But as the cost of living went up, Tim, who has a full-time job—his wages did not keep

pace. It took 3 months of financial strain before Tim and his family realized they needed to use the food bank he had been contributing to in the past.

Tim used to consider himself middle class. He does not picture himself that way anymore. But there is reason for hope. In 2007, this Congress, the House and the Senate, passed the first minimum wage increase in 10 years. Workers now earn $5.85 an hour, and will get a raise of 70 cents next month. This is a positive step but just the first. We must continue to push for a living wage for all of Ohio and America's hard-working men and women.

Today someone earning a minimum wage and working full time makes only $10,700 a year. That is $6,000 below the poverty line for a family of three. That, put mildly, is unacceptable. Congress must work to index the minimum wage to inflation to give workers relief in these hard times.

Under current policy, wages stay low as prices go up. Wages in real dollars are far below the minimum wage, and in real dollars are far below what it was 40 years ago. Hard-working Americans are at the mercy of politics and business lobbies for an increase in pay, while CEOs of corporations such as Exxon are reporting record paydays. This is unconscionable.

Franklin Roosevelt said:

> A self-supporting and self-respecting democracy can plead no justification for the existence of child labor, no economic reason for chiseling workers' wages or stretching workers' hours.

Like Roosevelt, we must stand for social and economic justice. If social justice and economic justice works for hard-working Ohio families, hard-working American families, and social and economic justice builds a better society, we must do our part to ensure that those who want to work can make a living wage.

We must fight in this Chamber for families who are struggling to stay above the poverty line, families who work full time and play by the rules, pay their taxes, are involved in their communities, raising their kids. We must ask ourselves what kind of country we want this great country to be.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I want to speak on the bill, not in morning business.

I am concerned we are not getting to a lot of the issues in this bill we should get to. Although I am supportive of the underlying bill, one of the issues we are not getting to, and I do not understand it, is the need to extend the renewable tax credits.

Senator ENSIGN and Senator CANTWELL have brought forward an amendment to accomplish this. The renewable tax credits are those tax credits which create an incentive for using things that are more energy efficient: making your home more energy efficient, using solar, using wind, using wood pellet stoves, things which are basically alternative sources of energy, or doing additions to people's homes which make their homes more energy efficient.

At a time when gas prices are extraordinarily high, and oil prices are going through the roof, especially home heating oil—in fact, it is estimated home heating oil will be about $4.77 this week—it is essential that we do whatever we can as a government to encourage the use of alternative sources and renewables and to encourage people to be more energy efficient as they either build a new home or they refurbish and renovate their old homes.

That seems to be common sense to me. It has such common sense that this proposal, the extension of the renewable tax credits, passed this body with 88 votes. However, for some reason it is not being allowed to be brought up on this bill.

It is very appropriate for this bill, it is even germane to this bill, as I understand it, which is a pretty heavy test to pass. But it is not being allowed to be brought up for a vote. I cannot understand that. This is such an important action from the standpoint of giving consumers and people who are struggling with high energy cost options. It is something we should rush to do. It is not something that should be delayed by the leadership of the other side of the aisle. But that is what is happening.

I join with Senator ENSIGN and Senator CANTWELL and strongly encourage the leadership of the Senate Democrats to allow a vote on this amendment and let it pass. If the House does not want to take it, that is their choice. But I suspect the House will, because, again, it is common sense, and commonsense ideas usually lead to common ground, which leads to something happening around here.

When you have got 88 votes for something, it should be done. In the larger context of the energy crisis which we face, this type of step is critical. It is not going to solve the whole problem, we know that, but it is certainly part of the matrix of moving to a more positive result and getting our energy costs under control.

People in New Hampshire—this is true across the country, but people in New Hampshire are thinking about next winter and the cost of home heating oil is going to be extraordinary. It looks as if this will add tremendous stress, especially on people who live on a fixed income but even those who were able to adjust their income through working are going to find it difficult. They are going to find it difficult, because at $4 a gallon, if they have to commute to work—and most people in New Hampshire have to commute; it is a rural State from the standpoint of moving around—they are going to find it much more expensive to commute. Most people use oil to heat their homes, and with home heating oil at over $4.50 a gallon, you are talking about a doubling of the oil costs from last year. That is going to overwhelm the pocketbooks and the economic situation for a lot of people in New Hampshire. It is going to be a real hardship. We need to do something which will relieve that.

This is one element of extending the renewable energy tax credits. But another major element of it is for us to have an energy policy at the national level which essentially promotes American production of energy. We should produce more American energy and obviously we should consume less. There is no question that conservation is a critical element, as are renewables. But on the production side, there is no reason that we as a nation have locked up our capacity to use our resources in order to relieve the pressure on America's people who are now having to pay these outrageous prices for energy, and with the revenues from those purchases going overseas, in many instances to nations which do not like us all that much.

In addition, obviously every time we send a dollar overseas, it is a dollar that can't be invested here in more jobs, in more economic activity, and the fact that we have now tripled what we are exporting in the way of resources, in the way of dollars, again to countries in some instances that do not have a great deal of admiration for us, in many ways are antagonistic to us—the exportation of those huge amounts of dollars, over $300 billion a year, is money which we need here in America to make ourselves stronger.We are heading down a very dangerous road here when we do not recognize that we need to produce American energy and keep those dollars in the United States, rather than shipping them overseas.

Now, from the other side of the aisle we heard these proposals, we heard it from the Senator from North Dakota, that the way to address this is to litigate; the way to address this is to regulate; the way to address this is to tax.

Well, none of those initiatives add more resources to the mix. And this is, in large part, an issue of supply and demand. The world is expanding. India and China have a population base of almost 2.5 billion people between them. We have 300 million people. They are growing economically, and they are using a lot of energy to do that.

We have to recognize that if we are going to remain competitive and productive and strong, we have got to produce energy here, we have got to conserve it—we have to produce more of it, and we have to use less.

As part of that initiative, we need to look at ways and places that we can produce more, areas such as oil shale, for example. We have more reserves in oil shale, three times as much reserves in oil as Saudi Arabia. The estimate is between 2 and 3 trillion barrels of reserves in oil shale alone. We have huge

reserves in Outer Continental Shelf oil and gas. But both of those types of resources are being locked down by opposition, again regrettably by the other side of the aisle, which says we cannot drill in the Outer Continental Shelf except in the Gulf of Mexico, and we cannot use the oil shale reserves which are available.

In fact, 100 percent of the oil shale reserves have been put off limits by policies of the other side of the aisle, supported by their national Presidential candidate, Mr. OBAMA, and 85 percent of the oil in the lower 49 that is potentially out there on the Outer Continental Shelf has been put off limits, again, by the other side of the aisle and, again, supported by Senator OBAMA. That is a huge amount of reserves which we are leaving in the ground while we buy oil at exorbitant prices from Venezuela, a country led by an individual who hates America; oil from Iran, a country where the entire government hates America and anything western.

Why do we do that? That makes no sense at all. Clearly, we have these reserves here, and they can be recovered in an environmentally safe and sound way. The example on the Outer Continental Shelf was shown when we saw Katrina, a horrific disaster, a force 5 hurricane that came up the Gulf of Mexico and wiped out one of our great cities, New Orleans. Virtually no oil or gas was spilled as a result of Hurricane Katrina. Yet it went right across the Gulf of Mexico where all the major oil and gas rigs are. That proved beyond any question that gas and oil can be produced on the Outer Continental Shelf with environmental safety.

There is a lot of it out there that has been locked down. Eighty-five percent of the potential leaseholds are no longer available because of the position taken by the other side. In the area of oil shale, these huge reserves which may be available to us are recoverable by drilling underground and by doing almost all the effort to recover that oil underground so that what actually comes out of the ground is virtually the product that is used. We could essentially get all the oil we need in order to operate the armed services of the United States, the biggest consumer of oil in this country, simply from oil shale because it is a heavy oil which is diesel-like fuel. Yet that is locked down; 100 percent of that is locked down by the policies of the other side of the aisle.

We can move on, of course, to another source that we need to use, which is nuclear power. Nuclear power is essential if we are going to produce the electricity necessary to make this country productive and prosperous and to meet the need to reduce greenhouse gases which are creating problems for us as a culture and for the world. The other side of the aisle has resisted and stopped construction of new nuclear powerplants. We are uniquely familiar with this in New Hampshire. We had the last nuclear powerplant that went on line, Seabrook. It took us an extra 10 to 15 years to build that plant beyond what it should have required. It cost us almost $1 billion more than it should have cost, and almost all of those costs and delays were a function of protests undertaken by very activist elements led primarily by the Democratic Party within the State of New Hampshire.

There has never been an apology for what they did to the people of New Hampshire—over a billion dollars of extra energy costs put on the people of New Hampshire, a direct tax, and yet Seabrook, once it was turned on, has delivered power for almost 18 years and has delivered it safely and at a fair price, to the point where New Hampshire actually exports energy to surrounding States as a result.

We know nuclear power can be safe. Nobody has ever died from nuclear power as compared with other types of power sources. We should not bar its development; we should encourage its development. We need new nuclear powerplants. We need new sources. We need to find and explore for new sources of energy such as are available on the Outer Continental Shelf and in oil shale.

Yet, regrettably, what we run into here is that everybody can agree on the need for conservation, but it doesn't appear we are going to agree on the need for renewables because that amendment is being stopped. But the idea that we should go out and produce more American energy so we are not buying energy from Venezuela and from Iran, that is rejected, regrettably, by the other side of the aisle.

The policy presented in their energy plan was taxation, litigation, and regulation. We heard it again today. We just regulate our way into a surplus of supply. That is not going to happen. You can't take a trial lawyer and stick him in your oil tank, in your house, and get energy. The simple fact is, giving the trial lawyers the ability to sue Venezuela isn't going to produce any more energy for the United States.

What it is probably going to do is create an atmosphere where countries that dislike us within the OPEC group are going to say: The heck with you. You want to create a lawsuit against us, we don't have to sell you the energy or, when you send us your money, we don't have to reinvest in the United States. It is cutting off our nose to spite our face. It is a policy that is virtually absurd on its face because it will have so little productive effect on the price of energy.

The same could be said for taxation. We are going to create a confiscatory tax on companies that produce energy, American companies. Those companies only control about 6 percent of the world's reserves. The rest of the world's reserves are controlled by nations such as Saudi Arabia, Venezuela, and Iran. They are not going to be subject to that tax, their companies. So that puts our companies immediately at a competitive disadvantage.

What do these companies which have been so vilified around here and such easy targets for the online press release really do with those profits? They do two things: They reinvest them in trying to find more energy, which will hopefully be American-produced energy, which is good because more supply reduces cost, or they distribute those profits to shareholders. Who are the shareholders? Most Americans are shareholders, and most American shareholdings are in these companies.

If you have a 401(k), if you are a member of a pension fund, if you are a union employee and you have a pension fund, the odds are good that pension fund is invested in one of these companies that are going to be subject to this brand new taxation coming from the other side of the aisle. There will be less money to explore and less money to distribute back to working Americans through their pension funds and dividends. That is not going to produce any more energy; in fact, it will produce less. That, again, accomplishes nothing except putting out a press release which has nice cosmetics, but when you look behind it, it has no substance as to addressing the fundamental issue.

The fundamental issue is this: We, as a country, need more American energy production, and we need to consume a lot less. There are two sides to the coin. We also need a renewable policy that works. That is why this amendment offered by Senators ENSIGN and CANTWELL, and which has such broad support here, should be voted on. It is a no-brainer. Let's at least move this part of the package of responsible energy policy. I cannot understand why it is not being voted on, especially since it is relevant to the housing bill. We should pass this in a nanosecond because it will at least help in a small way toward moving our energy policy in the right way, which is toward more renewables as we address the issue of production and conservation along with it.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Wisconsin.

FISA AMENDMENTS ACT OF 2008

Mr. FEINGOLD. Mr. President, I strongly oppose H.R. 6304, the FISA Amendments Act of 2008. I will vote against cloture on the motion to proceed. This legislation has been billed as a compromise between Republicans and Democrats. We are asked to support it because it is supposedly a reasonable accommodation of opposing views.

Let me respond to that as clearly as possible. This bill is not a compromise; it is a capitulation. This bill will effectively and unjustifiably grant immunity to companies that allegedly participated in an illegal wiretapping program, a program that more than 70 Members of this body still know virtually nothing about. This bill will

grant the Bush administration, the same administration that developed and operated this illegal program for more than 5 years, expansive new authorities to spy on Americans' international communications.

If you don't believe me, here is what Senator BOND had to say about the bill:

I think the White House got a better deal than even they had hoped to get.

House minority whip ROY BLUNT said:

The lawsuits will be dismissed.

There is simply no question that Democrats who had previously stood strong against immunity and in support of civil liberties were on the losing end of this backroom deal.

The railroading of Congress began last summer when the administration rammed through the so-called Protect America Act, or PAA, vastly expanding the Government's ability to eavesdrop without a court-approved warrant. That legislation was rushed through this Chamber in a climate of fear—fear of terrorist attacks and fear of not appearing sufficiently strong on national security. There was very little understanding of what the legislation actually did. But the silver lining was that the law did have a 6-month sunset. So Congress quickly started working to fix the legislation. The House passed a bill last fall. The Senate passed its bill, one that I believed was deeply flawed, in February.

As the PAA 6-month sunset approached in late February, the House faced enormous political pressure simply to pass the Senate bill before the sunset date, but the reality was that no orders under the PAA were actually going to expire in February. Fortunately, to their great credit, the House stood firm in its resolve not to pass the Senate bill with its unjustified immunity provisions. The House deserves enormous credit for not buckling in the face of the President's attempts to intimidate them. Ultimately, the House passed new legislation in March, setting up the negotiations that have led us here today.

I think it is safe to say that even many who voted for the Protect America Act last year came to believe it was a mistake to pass that legislation. While the House deserves credit for refusing to pass the Senate bill in February and for securing the changes in this new bill, the bill is still a very serious mistake.

The immunity provision is a key reason for that. It is a key reason for my opposition to the legislation and for that of so many of my colleagues and, frankly, so many Americans. No one should be fooled about the effect of this bill. Under its terms the companies that allegedly participated in the illegal wiretapping program will walk away from these lawsuits with immunity. They will get immunity. There is simply no question about it. Anyone who says this bill preserves a meaningful role for the courts to play in deciding these cases is just wrong.

I am a little concerned that the focus on immunity has diverted attention away from the other very important issues at stake in this legislation. In the long run, I don't believe this bill will be actually remembered as the immunity bill. I think this bill is going to be remembered as the legislation in which Congress granted the executive branch the power to sweep up all of our international communications with very few controls or oversight.

Here I am talking about title I of the bill, the title that makes substantive changes to the FISA statute. I would like to explain why I am so concerned about the new surveillance powers granted in this part of the bill, and why the modest improvements made to this part of the bill don't even come close to being sufficient.

This bill has been sold to us as necessary to ensure that the Government can collect communications between persons overseas without a warrant and to ensure that the Government can collect the communications of terrorists, including their communications with people in the United States. No one disagrees that the Government should have this authority. But the bill goes much further, authorizing widespread surveillance involving innocent Americans at home and abroad.

First, the FISA Amendments Act, like the Protect America Act, will authorize the Government to collect all communications between the United States and the rest of the world.

That could mean millions upon millions of communications between innocent Americans and their friends, families, or business associates overseas could legally be collected. Parents calling their kids studying abroad, e-mails to friends '' serving in Iraq—all of these communications could be collected, with absolutely no suspicion of any wrongdoing, under this legislation. In fact, the DNI even testified that this type of ''bulk collection'' would be ''desirable.''

The bill's supporters like to say that the Government needs additional powers to target terrorists overseas. But under this bill, the Government is not limited to targeting foreigners outside the United States who are terrorists, or who are suspected of some wrongdoing, or who are members or agents of some foreign government or organization. In fact, the Government does not even need a specific purpose for wiretapping anyone overseas. All it needs to have is a general ''foreign intelligence'' purpose, which is a standard so broad that it basically covers all international communications.

That is not just my opinion. The DNI has testified that, under the PAA, and presumably this bill, the Government could legally collect all communications between the United States and overseas. Let me repeat that. Under this bill, the Government can legally collect all communications—every last one—between Americans here at home at home and the rest of the world.

I should note that one of the few bright spots in this bill is the inclusion of a provision from the Senate bill to prohibit the intentional targeting of an American overseas without a warrant. That is an important new protection. But that amendment does not prevent the indiscriminate vacuuming up of all international communications, which would allow the Government to collect the communications of Americans overseas, including with friends and family back home, without a warrant.

I tried to address this issue of ''bulk collection'' several times, working in the Intelligence Committee, the Judiciary Committee, and ultimately on the Senate floor in February, when I offered an amendment that would have required that there be some foreign intelligence purpose for the collection of communications to or from particular targets. The vast majority of Democrats supported this effort, but, unfortunately, it was defeated. So the bill today we are considering does not address this serious problem.

Second, like the earlier Senate version, this bill fails to effectively prohibit the practice of reverse targeting and this is; namely, wiretapping a person overseas when what the Government is really interested in is listening to an American here at home with whom the foreigner is communicating. The bill does have a provision that purports to address this issue. The bill prohibits intentionally targeting a person outside the United States without an individualized court order if ''the purpose'' is to target someone reasonably believed to be in the United States. But this language would permit intentional and possibly unconstitutional warrantless surveillance of an American so long as the Government has any interest in the person overseas with whom the American is communicating. And, if there was any doubt, the DNI has publicly said that the Senate bill—which contained identical language as the current bill—merely ''codifies'' the administration's position, which is that the Government can wiretap a person overseas indefinitely without a warrant, no matter how interested it may really be in the American with whom that person overseas is communicating.

Supporters of this bill also will argue that it requires the executive branch to establish guidelines for implementing this new reverse targeting requirement. But the guidelines are not subject to any judicial review. And requiring guidelines to implement an ineffective limitation is not a particularly comforting safeguard.

When the Senate considered the FISA bill earlier this year, I offered an amendment—one that had actually been approved by the Senate Judiciary Committee—to make this prohibition on reverse targeting meaningful. My amendment, which again had the support of the vast majority of the Democratic caucus and was included in the bill passed by the House in March,

would have required the Government to obtain a court order whenever a significant purpose of the surveillance is actually to acquire the communications of an American in the United States. This would have done a far better job of protecting the privacy of the international communications of innocent Americans. Unfortunately, it is not in this bill.

Third, the bill before us imposes no meaningful consequences if the Government initiates surveillance using procedures that have not been approved by the FISA Court, and the FISA Court later finds that those procedures were unlawful. Say, for example, that the FISA Court determines that the procedures were not even reasonably designed to wiretap foreigners rather than Americans. Under the bill, all of that illegally obtained information on Americans can be retained and used anyway. Once again, there are no consequences for illegal behavior.

Now, unlike the Senate bill, this new bill does generally provide for FISA Court review of surveillance procedures before surveillance begins. But it also says that if the Attorney General and the DNI certify that they don't have time to get a court order and that intelligence important to national security may be lost or not timely acquired, then they can go forward without this judicial approval. This is a far cry from allowing an exception to FISA Court review in a true emergency because arguably all intelligence is important to national security and any delay at all might cause some intelligence to be lost. So I am really concerned that this so-called exigency exception could very well swallow the rule and undermine any presumption of prior judicial approval.

But whether the exception is applied broadly or narrowly, if the Government invokes it and ultimately engages in illegal surveillance, the court should be given at least some flexibility after the fact to determine whether the government should be allowed to keep the results of illegal surveillance if it involves Americans. That is what another one of my amendments on the Senate floor would have done, an amendment that actually garnered 40 votes. Yet this issue goes completely unaddressed in the so-called compromise.

Fourth, this bill doesn't protect the privacy of Americans whose communications will be collected in vast new quantities. The administration's mantra has been: Don't worry, we have minimization procedures. Minimization procedures are nothing more than unchecked executive branch decisions about what information on Americans constitutes ''foreign intelligence.'' As recently declassified documents have again confirmed, the ability of Government officials to find out the identity of Americans and use that information is extremely broad. Moreover, even if the administration were correct that minimization procedures have worked in the past, they are certainly inadequate as a check against the vast amounts of Americans' private information that could be collected under this bill. That is why on the Senate floor joined with my colleagues, Senator WEBB and Senator TESTER, to offer an amendment to provide real protections for the privacy of Americans, j while also giving the Government the flexibility it needs to wiretap terrorists overseas. But this bill, like the Senate bill, relies solely on these inadequate minimization procedures.

The broad surveillance powers involving international communications that are contained in this legislation are particularly troubling because we live in a world in which international communications are increasingly commonplace. Thirty years ago it was very expensive, and not very common, for most Americans to make an overseas call. Now, particularly with e-mail, such communications happen all the time. Millions of ordinary, and innocent, Americans communicate with people overseas for entirely legitimate personal and business reasons. Parents or children call family members overseas. Students e-mail friends they have met while studying abroad. Business people communicate with colleagues or clients overseas. Technological advancements combined with the ever more interconnected world economy have led to an explosion of international contacts.

Supporters of the bill like to say that we just have to bring FISA up to date with new technology. But changes in technology should also cause us to take a close look at the need for greater protections of the privacy of our citizens. If we are going to give the Government broad new powers that will lead to the collection of much more information on innocent Americans, we have a duty to protect their privacy as much as we possibly can. And we can do that without sacrificing our ability to collect information that will help us protect our national security. This supposed compromise, unfortunately, fails that test.

I don't mean to suggest that this bill does not contain some improvements over the bill that the Senate passed early this year. Clearly it does, and I appreciate that. Certainly, it is a good thing that this bill includes language making clear, once and for all, that Congress considers FISA and the criminal wiretap laws to be the exclusive means by which electronic surveillance can be conducted in this country—a provision that Senator FEINSTEIN fought so hard for. And it is a good thing that Congress is directing the relevant inspectors general to do a comprehensive report on the President's illegal wiretapping program—a report whose contents I hope will be made public to the greatest degree possible. And it is a good thing that the bill no longer redefines the critical FISA term ''electronic surveillance,'' which could have led to a lot of confusion and unintended consequences.

All of those provisions are positive developments, and I am glad that the ultimate product seemingly destined to become law contains these improvements.

But I just can't pretend somehow that these improvements are enough. They are nowhere close. When I offered my amendments on the Senate floor in February, the vast majority of the Democratic caucus supported me. While I did not have the votes to pass those amendments, I am confident that more and more Members of Congress will agree that changes to this legislation need to be made. If we can't make them this year, then Congress must return to this issue—and it must do so as soon as the new President takes office. These issues are far too important to wait until the sunset date, especially now that it is set in this bill for 2012, another presidential election year.

But let me now turn to the grant of retroactive immunity that is contained in this bill because on that issue there is no question that any differences between this bill and the Senate bill are only cosmetic. Make no mistake: This bill will result in immunity.

Under the terms of this bill, a Federal district court would evaluate whether there is substantial evidence that a company received ''a written request or directive . . . from the Attorney General or the head of an element of the intelligence community . . . indicating that the activity was authorized by the President and determined to be lawful.''

But we already know from Senate Select Committee on Intelligence's committee report last fall that the companies received exactly these materials. That is already public information. So under the exact terms of this proposal, the court's evaluation would essentially be predetermined.

Regardless of how much information the court is permitted to review, what standard of review is employed, how open the proceedings are, and what role the plaintiffs are permitted to play, the court will essentially be required to grant immunity under this bill.

Now, proponents will argue that the plaintiffs in the lawsuits against the companies can participate in briefing to the court. This is true. But they are allowed to participate only to the extent it does not necessitate the disclosure of classified information. The administration has restricted information about this illegal program so much that, again, more than 70 Members of this Chamber alone don't even have access to the basic facts about what happened. So let's not pretend that the plaintiffs will be able to participate in any meaningful way. And even if they could participate fully, as I said before, immunity is a foregone conclusion under the bill.

This result is extremely disappointing on many levels, perhaps most of all because granting retroactive immunity is unnecessary and unjustified. Doing this will profoundly

undermine the rule of law in this country.

For starters, current law already provides immunity from lawsuits for companies that cooperate with the Government's request for assistance, as long as they receive either a court order or a certification from the Attorney General that no court order is needed and the request meets all statutory requirements. But if requests are not properly documented, FISA instructs the telephone companies to refuse the Government's request, and subjects them to liability if they instead still decide to cooperate. Now, there is a reason for this. This framework, which has been in place for 30 years, protects companies that act at the request of the Government while also protecting the privacy of Americans' communications.

Some supporters of retroactively expanding this already existing immunity provision argue that the telephone companies should not be penalized if they relied on a high-level Government assurance that the requested assistance was lawful. But as superficially appealing as that argument may sound, it completely ignores the history of the FISA law.

Telephone companies have a long history of receiving requests for assistance from the Government. That is because telephone companies have access to a wealth of private information about Americans—information that can be a very useful tool for law enforcement. But that very same access to private communications means that telephone companies are in a unique position of responsibility and public trust.

And yet, before FISA, there were basically no rules at all to help these phone companies resolve the tension between the Government's requests for assistance in foreign intelligence investigations and the companies' responsibilities to their customers.

So this legal vacuum resulted in serious governmental abuse and overreaching. The abuses that took place are well documented and quite shocking. With the willing cooperation of the telephone companies, the FBI conducted surveillance of peaceful antiwar protesters, journalists, steel company executives, and even Martin Luther King, Jr.

So Congress decided to take action. Based on the history of, and potential for, Government abuses, Congress decided that it was not appropriate—not appropriate—for telephone companies to simply assume that any Government request for assistance to conduct electronic surveillance was legal. Let me repeat that: A primary purpose of FISA was to make clear, once and for all, that the telephone companies should not blindly cooperate with Government requests for assistance.

At the same time, however, Congress did not want to saddle telephone companies with the responsibility of determining whether the Government's request for assistance was a lawful one. That approach would leave the companies in a permanent state of legal uncertainty about their obligations.

So Congress devised a system that would take the guesswork out of it completely. Under that system, which was in place in 2001, and is still in place today, the companies' legal obligations and liability depend entirely on whether the Government has presented the company with a court order or a certification stating that certain basic requirements have been met. If the proper documentation is submitted, the company must cooperate with the request and will be immune from liability. If the proper documentation has not been submitted, the company must refuse the Government's request, or be subject to possible liability in the courts.

The telephone companies and the Government have been operating under this simple framework for 30 years. The companies have experienced, highly trained, and highly compensated lawyers who know this law inside and out.

In view of this history, it is inconceivable that any telephone companies that allegedly cooperated with the administration's warrantless wiretapping program did not know what their obligations were. It is just as implausible that those companies believed they were entitled to simply assume the lawfulness of a Government request for assistance. This whole effort to obtain retroactive immunity is based on an assumption that doesn't hold water.

That brings me to another issue. I have been discussing why retroactive immunity is unnecessary and unjustified, but it goes beyond that. Granting companies that allegedly cooperated with an illegal program this new form of automatic, retroactive immunity undermines the law that has been on the books for decades—a law that was designed to prevent exactly the type of actions that allegedly occurred here.

Remember, telephone companies already have absolute immunity if they complied with the applicable law. They have an affirmative defense if they believed in good faith that they were complying with that law. So the retroactive immunity provision we are debating here is necessary only if we want to extend immunity to companies that did *not* comply with the applicable law and did not even have a good faith belief that they were complying with it. So much for the rule of law.

Even worse, granting retroactive immunity under these circumstances will undermine any new laws that we pass regarding Government surveillance. If we want companies to follow the law in the future, it sends a terrible message, and sets a terrible precedent, to give them a ''get out of jail free'' card for allegedly ignoring the law in the past.

I find it particularly troubling when some of my colleagues argue that we should grant immunity in order to encourage the telephone companies to cooperate with Government in the future. They want Americans to think that not granting immunity will damage our national security. But if you take a close look at the argument, it does not hold up. The telephone companies are already legally obligated to cooperate with a court order, and as I have mentioned, they already have absolute immunity for cooperating with requests that are properly certified. So the only thing we would be encouraging by granting immunity here is cooperation with requests that violate the law. That is exactly the kind of cooperation that FISA was supposed to prevent.

Let's remember why. These companies have access to our most private conversations, and Americans depend on them to respect and defend the privacy of these communications unless there is clear legal authority for sharing them. They depend on us to make sure the companies are held accountable for betrayals of that public trust. Instead, this immunity provision would invite the telephone companies to betray that trust by encouraging cooperation with illegal Government programs.

But this immunity provision does not just allow telephone companies off the hook for breaking the law. It also will make it that much harder to get to the core issue that I have been raising since December 2005, which is that the President ran an illegal program and should be held accountable. When these lawsuits are dismissed, we will be that much further away from an independent judicial review of this program.

Since 9/11, I have heard it said many times that what separates us from our enemies is respect for the rule of law. Unfortunately, the rule of law has taken it on the chin from this administration. Over and over, the President and his advisers have claimed the right to ignore the will of Congress and the laws on the books if and when they see fit. Now they are claiming the same right for any entity that assists them in that effort, no matter how unreasonable that assistance might have been.

On top of all this, we are considering granting immunity when more than 70 members of the Senate still—still—have not been briefed on the President's wiretapping program. The majority of this body still does not even know what we are being asked to grant immunity for.

In sum, I cannot support this legislation. I appreciate that changes were made to the Senate bill, but they are not enough. Nowhere near enough.

We have other alternatives. We have options. We do not have to pass this law in the midst of a presidential election year, while George Bush remains President, in the worst possible political climate for constructive legislating in this area. If the concern is that orders issued under the PAA could expire as early as August, we could extend the PAA for another 6 months, 9 months, even a year. We could put a 1-year sunset on this bill, rather than

having it sunset in the next Presidential election year when partisan politics will once again be at their worst. Or we could extend the effect of any current PAA orders for 6 months or a year. All of these options would address any immediate national security concerns.

What we do not have to do and what we should not do is pass a law that will immunize illegal behavior and fundamentally alter our surveillance laws for years to come.

I have spent a great deal of time over the past year—in the Senate Intelligence Committee, in the Senate Judiciary Committee, and on the Senate floor—discussing my concerns, offering amendments, and debating the possible effects of the fine print of various bills. But this is not simply about fine print. In the end, my opposition to this bill comes down to this: This bill is a tragic retreat from the principles that have governed Government conduct in this sensitive area for 30 years. It needlessly sacrifices the protection of the privacy of innocent Americans, and it is an abdication of this body's duty to stand up for the rule of law. I will vote no.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, we are at a critical moment. According to the Mortgage Bankers, the rate of foreclosures and the percentage of loans in the process of foreclosure are at the highest recorded level since 1979.

The delinquency rate for all mortgage loans on one- to four-unit residential properties stood at 6.35 percent of all loans outstanding at the end of the first quarter of 2008. This is an increase of 151 basis points from 1 year ago—a 1.5-percent increase—which is usually significant because it translates into thousands and thousands of Americans who are facing foreclosure.

The percentage of loans in the foreclosure process was 2.47 percent at the end of the first quarter, more than double what it was a year prior.

In my own State of Rhode Island, 5.65 percent of all loans are past due, and 2.75 percent are in foreclosure.

That is a staggering statistic. Rhode Island has the unfortunate distinction of having the highest foreclosure rate in New England and is fourth in the Nation for subprime foreclosures.

For many Rhode Islanders—in fact, the majority—their home is their wealth, their nest egg. Unfortunately, with such a high foreclosure rate, many Rhode Islanders are seeing their wealth erode as home prices fall. Thousands more are in default because they are no longer able to refinance or sell their homes since their mortgages are now worth more than the appraised value of their homes.

This week, the latest Case-Schiller home price index was released. Home prices in 20 U.S. metropolitan areas in April fell by 15.3 percent from a year earlier, signaling that the housing recession is not over. In fact, it continues unabated.

More foreclosures will further exacerbate the overall decline in property values and have a dramatic and drastic effect on entire communities. It is clear that this vicious cycle in the mortgage and housing markets is negatively impacting the entire economy.

In addition, as a result of the credit crunch in the mortgage markets, Fannie Mae and Freddie Mac are now the largest player in the secondary housing market. Combined, they are purchasing and securitizing almost 80 percent of the mortgage market right now and almost single-handedly are keeping mortgage credit flowing throughout the country.

Fannie Mae and Freddie Mac are at a critical juncture, and we need to make sure they are well capitalized and overseen by a strong and independent regulator with more bank-like regulatory authorities.

Finally, we do not just have a credit crunch and a mortgage meltdown, we also have a continuing and persistent affordable housing crisis in this country. The irony is, we had an affordable housing crisis when prices were going up because people were being squeezed out of rental properties. Rents were going up. People were being squeezed because there was a real demand for upscale housing and not the same kind of demand in the private market for affordable housing.

As the housing market declines, people are also squeezed. People lost their homes and are moving into apartments. The activity to build and develop affordable housing has not picked up at all. So we have the situation where we also have to deal with affordable rental housing in particular. In the wake of the foreclosure crisis, all of these factors are compounding the plight of Americans across the board. Homeowners are losing their homes, low-income Americans are struggling to find properties to rent, and homeowners have seen the value of their housing investment—which represented their plans for the future and the future of their children—all being radically rewritten as we speak because of a decline in the price of houses. We have seen for the first time a reversal in what had been a positive trend in home ownership. That is now declining.

So I think we are working hard to try to respond to all these issues. How do we inhibit, prevent, as much as we can, this drumbeat of foreclosures? How do we provide support for families who are looking for affordable housing? How do we do it in a conscientious way and also strengthen the regulatory structure that governs Fannie Mae and Freddie Mac? I think we have achieved that in this legislation, and now the time is to move forward. That is why I am encouraging all of my colleagues to support the Housing and Economic Recovery Act of 2008.

This bill includes the Federal Housing Finance Regulatory Reform Act, which will allow us to create a world-class regulator for Fannie Mae and Freddie Mac and the Federal Home Loan Banks, the housing government-sponsored enterprises. This regulator will have broad, new authorities to ensure the safe and sound operations of all these institutions. These powers will include establishing capital standards, setting prudential management standards, enforcing orders through cease-and-desist authority, civil monetary penalties and also the authority to remove officers and directors, restricting asset growth and capital distribution for those institutions which are undercapitalized. It can place a regulated entity into receivership, and it can review and approve new product offers. All of these are the powers which we have extended historically to bank regulators, and now these powers are being extended to the regulator of three of the most prominent financial institutions in the country, although their focus is on housing exclusively, or generally.

This legislation expands the number of families Freddie Mac and Fannie Mae can serve by raising the loan limits in high-cost areas to 150 percent of the conforming loan limit. It also significantly enhances the housing component of the GSEs' mission.

It includes provisions I authored that will dramatically expand Fannie Mae's and Freddie Mac's affordable housing mission by creating a new housing trust fund and capital magnet fund, financed by annual contributions from the enterprises, which will be used for the construction and rehabilitation of affordable rental housing. We expect these programs to eventually provide between $500 million to $1 billion per year for the development of housing for low-income families. These affordable housing contributions are obtained by requiring Fannie Mae and Freddie Mac to set aside less than half a cent on each dollar of unpaid principal balance of the enterprises' total new business purchases. Eventually, 75 percent of the funds collected will be used for the affordable housing trust fund and 25 percent will be allocated for the payment of Government bonds to keep the bill deficit neutral.

I was very pleased to have worked out a compromise with all my colleagues, particularly Senators DODD and SHELBY, that would allow the HOPE for Homeowners Program—the

program Senator DODD has taken the lead in crafting which will resolve or attempt to resolve some of these foreclosure difficulties—to be a mandatory program that is deficit neutral and would not require any payments from the Federal taxpayers because it would use the proceeds from the Federal housing fund in the first 2 years to pay for this foreclosure program. I think this program is a great way to accomplish many of the objectives we have. First, we do want to help people facing foreclosure, but we also do not want to necessarily engage taxpayer funds in that process. This arrangement accomplishes those two objectives.

As many of my colleagues know, I introduced a bill in November to improve the mission of the GSEs that would, in fact, allocate all the money to affordable housing. The bill before us would help this affordable housing mission, but it would also allow, as I have said, for the first 2 years, to allocate some of the resources to Senator DODD's proposal to prevent and assist in the foreclosure process.

Once we have the foreclosure program up and running, then, after 2 years, the resources will be devoted to affordable housing, with 65 percent being used to create a permanent housing trust fund. The housing trust fund will be managed by the Secretary of Housing and Urban Development, and it would distribute these funds to States via a formula. At least 75 percent of the funds distributed to the States must be targeted to extremely low-income families.

Thirty-five percent of the affordable housing funds will be allocated to a capital magnet fund and will be used by the Secretary of the Treasury to run a competitive grant program to attract private capital for and increase investment in affordable housing. Applicants for funding will need to show they can leverage the funding by at least 10 to 1. We believe this will result in the creation of many more units of affordable housing than could be done otherwise. What we are requiring these applicants to do is to enlist private capital in a ratio of at least 10 to 1 to match the public capital and increase significantly the scope of these programs and to house many more Americans. I think this is a great way to incentivize and challenge private capital to come into the field of affordable housing and to put more Americans in decent, affordable rental housing.

The mission improvement section of the bill also strengthens Fannie Mae's and Freddie Mac's affordable housing goals. In particular, it would align their goals regarding the purchase of affordable mortgages with current Community Reinvestment Act income targeting definitions and ensure that these enterprises provide liquidity to both ownership and rental housing markets for low- and very low-income families. We want to make sure we target these resources to those Americans particularly struggling in a very difficult economy—low- and very low-income Americans.

The legislation requires the enterprises to serve a variety of underserved markets, such as rural areas, manufactured housing, and affordable housing preservation. It improves reporting requirements for affordable housing activities, including expansion of a public-use database, and strengthens the new regulator's ability to enforce compliance with these housing goals.

All of these affordable housing provisions are premised on the fact that with Fannie and Freddie's Government benefits come many important responsibilities to the public.

As I mentioned earlier, this legislation also contains a bill authorized by Senator DODD called the HOPE for Homeowners Act. I wish to commend him for his hard work in crafting these provisions and also commend him for the judicious way he has managed this legislation.

In the last several weeks, this legislation has called for very critical judgments about procedures and timing and substance. On every one of those occasions, Senator DODD, working closely with Senator SHELBY, has made some remarkable, wise, and judicious judgments, and I commend him for that—both of them, and for their stewardship of this legislation.

Now, this legislation Senator DODD is proposing, the HOPE for Homeowners Act, would create a new temporary, voluntary program within the Federal Housing Administration to back FHA-insured mortgages to distressed borrowers. The program is vitally important and could not come at a more important time.

Two weeks ago, the OCC—the Office of the Comptroller of the Currency—put out a report documenting the scope of the failure of the Bush administration's efforts to stem the mortgage crisis. The administration has been relying on a voluntary industry effort called HOPE Now. HOPE Now has been reporting that it has produced in excess of 1 million loan modifications through this program. They have had events to tout it in the public and the press. They always mention this number.

The credibility of the HOPE Now numbers has been under attack for a while, primarily because they are self-reported numbers and because HOPE Now includes in its numbers ''payment plans,'' which are not loan modifications but only delay troubled home borrowers. Apparently, the regulators themselves have begun to feel a little uncomfortable, and the OCC decided to do its own report with its own numbers. They reported that voluntary mortgage industry efforts have resulted in only 52,000 loan modifications out of 3 million seriously delinquent loans.

In addition to the 3 million seriously delinquent loans—loans over 60 days or in bankruptcy or foreclosure—there are also 1.5 million foreclosures in process, and new foreclosures initiated during the same period total almost 300,000. In effect, foreclosures are running six times ahead of loan-modification efforts. Looking at it another way, loan modifications are less than 2 percent of seriously delinquent loans and only about 3 percent of foreclosures.

It is clear that the administration's argument that no new action is needed has been proven wrong. The OCC data also clearly demonstrates that helping mitigate the effects of this mortgage mess cannot be left completely up to the mortgage industry and voluntary efforts. ''Fuzzy math'' and a lack of transparency are what got us into this mess. It should not be used to try to cover up the fact that there is still a major problem.

That is why Senator DODD's HOPE for Homeowners Program is so important. It is going to enable approximately 400,000 homeowners to refinance into 30-year fixed mortgage products with FHA mortgage insurance. Many of these homeowners have no other financing option since their homes are now worth less than their mortgage. They are ''underwater.''

Any lender who participates in the HOPE Program Senator DODD is advancing will have to write down the value of the mortgage to 90 percent of the current appraised value of the home. They will write off the loss, and then the new loan for the homeowner will have to be for 30 years at a fixed rate and with FHA mortgage insurance. In exchange for getting a new loan with built-in equity, homeowners will have to share future appreciation equally with the FHA.

The intent of the legislation is to set a floor on lender losses while at the same time putting families into 30-year fixed rate mortgages that will allow them to keep their homes. This legislation, we hope, will help stabilize the housing markets in parts of the country that need the help the most.

In addition, most of the provisions from the Foreclosure Prevention Act of 2008 that passed the Senate by a vote of 88 to 8 on April 10 are included in this legislation. This section of the bill contains the Banking Committee's legislation to modernize, streamline, and expand the reach of the FHA mortgage insurance program.

The FHA modernization section includes provisions I authored that would expand access to home ownership counseling, provide for technology and staffing improvements at FHA, and update the FHA Home Equity Conversion Mortgage—HECM—Program, allowing seniors to safely tap into the equity of their home for other necessary expenses.

The FHA loan limit is increased from 95 percent to 110 percent of area median home price, with a cap at 150 percent of the GSE limit in high-cost areas, which currently will be $625,000. This should allow families in older areas of the country to access home

ownership through FHA. It also requires a downpayment of at least 3.5 percent for any FHA loan.

In addition, the Foreclosure Prevention Act section of the bill provides $3.92 billion in funding to communities hardest hit by foreclosure and delinquencies to purchase foreclosed homes at a discount and rehabilitate or redevelop the homes to stabilize neighborhoods and stem the significant losses in house values of neighboring homes. It also contains $150 million in additional funding for housing counseling.

It contains some important provisions to help our returning soldiers avoid foreclosure by lengthening the time a lender must wait before starting the foreclosure process and providing the veterans—soldiers, sailors, marines, airmen of the current conflict—with 1 year of relief from increases in mortgage interest rates. In addition, the Department of Defense is required to establish a counseling program to ensure these veterans can access assistance if facing financial difficulties. The legislation also increases the VA loan guarantee amount, so that veterans have additional home ownership opportunity.

I am also pleased that the bill contains a provision I authored in my bill, S. 2153, to amend the Truth in Lending Act to improve home loan disclosures. This provision will ensure that consumers are provided with timely and meaningful disclosures in connection with not just home purchases but also for loans that refinance a home or provide a home equity line of credit. The bill requires that mortgage disclosures be provided within 3 days of application and no later than 7 days prior to closing. This should allow borrowers to shop for another mortgage if they are not satisfied with the terms. If the terms of the loan change, the consumer must be notified 3 days before closing of the changed terms.

If consumers apply for adjustable rate or variable rate payment loans, there will now be an explicit warning on the 1-page Truth in Lending Act form that the payments will change depending on the interest rate and an estimate of how those payments will change under the terms of the contract based on the current interest rate. The bill also provides a new disclosure that informs borrowers of the maximum monthly payments possible under their loan. The bill provides the right to waive the early disclosure requirements if the consumer has a bona fide financial emergency that requires they close the loan quickly and increases the range of statutory damages for TILA violations from the current $200 to $2,000 to a range of $400 to $4,000.

Finally, it requires lenders to include a statement that the consumer is not obligated on the mortgage loan just because they received the disclosures. This will give consumers the opportunity to truly shop around for the best mortgage terms for the first time ever. They will be able to compare the payments and costs associated with a certain loan product and decide not to sign on the dotted line if they do not like the basic terms of the loan.

I believe that giving consumers the information they need regarding the maximum payment is absolutely critical. Borrowers need to better understand the full financial impact of entering into a particular loan early in the process and before they actually consummate the loan.

There are many borrowers today who signed up for a loan with teaser rates with a monthly payment they could well afford and then were shocked 18 months later to get the adjusted rates that were staggering to them and were, for many, unaffordable. Many in good faith relied on what they thought would be the initial introductory loan. I do not think they should be in that position. I think all the details, the maximum loan amount under the current rate should be available upfront, not hidden in a pile, literally a foot high, of closing documents.

They also have to have a chance to back out of the loan, if the terms are not acceptable to them, before closing the loan at the conference room table.

I am pleased my Republican colleagues have agreed with the need to improve mortgage disclosures also.

Finally, this legislation includes some important tax provisions that should enhance and strengthen the low-income housing tax credit program and the mortgage revenue bond program. It also has a refundable first-time home buyer credit of up to $8,000 to help reduce the stock of existing unoccupied housing and a nonitemizer tax deduction for State and local property taxes from Federal income tax.

It is my hope this legislation will help more families to refinance out of bad loans, help stabilize the housing market, and improve the laws and regulations so this type of foreclosure crisis never happens again.

As a member of the Banking Committee, I wish to particularly thank Chairman DODD and Senator SHELBY for including a number of bills and initiatives that I have been working on in the Housing and Economic Recovery Act that is before us today, and I hope we are going to be able to pass this important legislation in very short order.

The American people need a lot more than the current HOPE Now program, they need help now. I encourage all my colleagues, we should move forward deliberately—today, I hope—on this important legislation and send it to our colleagues in the House.

I know Chairman FRANK and his colleagues have done a remarkable job on their side to pass legislation that is very close to ours. Together, we should be able to send something to the President that he will, I hope, sign and will send a message to the American people that hope is not just a fiction of rhetoric, but it is a reality—and not just hope, but help is on the way.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. That was going to be my first unanimous consent request. My second one would be I ask consent that I be recognized following the remarks of the distinguished Senator from Idaho.

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

The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

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

COUNTY PAYMENTS ACT

Mr. CRAPO. Mr. President, I rise to discuss the increasingly dire need to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000. It is commonly called the County Payments Act. We also need to fully fund the payment in lieu of taxes provisions, otherwise commonly called PILT funding.

One hundred years ago, legislation was enacted to provide for the return of a percentage of the U.S. Forest Service gross receipts to the States to assist counties that are home to our national forests with school and road services. The reason for this legislation was that these States, where there are very high percentages of Federal ownership of property, have a much smaller property tax base for their communities. Particularly, many of these rural communities exist in counties where most of the county—in some counties in Idaho over 90 percent of the county—is owned by the Federal Government. They have virtually no property base. Yet they have all the other issues that come with the land base to deal with in their counties—schools, roads, law enforcement, and the like. It was recognized that since the Federal Government was immune from paying property taxes, the Federal Government—which was the beneficiary from these counties and which had such significant land holdings in these counties—should provide some kind of compensation to the counties as an alternative to property taxes, which they would pay if they were not the Federal Government and exempt from paying those taxes. That is where you get the payment in lieu of taxes, or PILT payment. The Secure Rural Schools and County Self-Determination Act was something that followed up on the PILT legislation. Without these funds, many rural communities that neighbor national forests would be unable to fully meet school and road needs of local communities. In recent years, however, timber receipts have eroded

to the point where the Federal obligation to local rural communities is not met through these receipts alone.

To compensate for the shortfall and to prevent the loss of essential county schools and roads infrastructure, Congress enacted the Secure Rural Schools and Community Self-Determination Act. This law has provided assistance to communities whose regular Forest Service and Bureau of Land Management receipt-sharing payments have declined significantly. Unfortunately, it expired at the end of 2006. While funding to continue the program for 2007 was thankfully included in last year's emergency supplemental, this funding has run out.

I stood on the floor of this Senate almost 5 months ago asking my colleagues to make this overdue extension and funding a top priority or Congress. However, this extension has still not been achieved, and counties and school districts that were facing job losses 5 months ago are in an increasingly more difficult situation. People are losing their jobs and families across the Nation are being impacted. The education of children across this Nation is being affected. This is unacceptable.

In April, I joined a bipartisan group of Senators who sent a letter to the Senate Appropriations Committee seeking the inclusion of an extension and funding for the Secure Rural Schools and Self-Determination Act of 2000 in the Fiscal Year 2008 Emergency Supplemental Appropriations Act. The Emergency Supplemental that was passed by the Senate last month contained $400 million to continue county payments for another year. This funding would ensure the continued assistance for rural communities struggling to provide necessary services in areas with large amounts Federal land. This bridge funding is essential to ensure the continuation of needed school services in rural communities throughout the country while work continues on a longer term extension. I understand that unfortunately this funding was stripped out of the supplemental in negotiations between the House and the administration.

I remind this body that a multiple year extension and funding for county payments and PILT has the overwhelming support of a bipartisan majority of the Senate. In fact, 74 Senators voted in favor of an amendment to provide a multi-year extension and funding in last year's emergency supplemental appropriations bill. However, as previously mentioned, this extension was pared back to one-year funding in the version that came out of conference and was enacted into law. Now, there is no funding and far less time.

What does a failure to extend the Secure Rural Schools and Community Self-Determination Act mean? It means the loss of more than 20,000 county and school employee jobs across the Nation. It means nearly 7,000 teachers and educational staff are estimated to lose their jobs. More than 100 teaching positions in Idaho alone will likely be affected. It means that 600 counties and more than 4,000 school districts in 42 States will not have the funds to fully provide needed services. It means incredible uncertainty to rural communities, counties, and families across the Nation during these difficult economic times. It means more than 8,000 road miles will not be maintained in Idaho alone. It means children in rural communities will have decreased access to quality education.

To help visualize the impact on rural communities of a failure to extend the program, I want to share some Idaho examples that were shared with me from my constituents: Shoshone County, ID, with a population of 15,000, expects 15 school instructional staff and as much as 55 percent of the county's road department employees to be affected. In Boise County, with a population of close to 7,000, the Road and Bridge Department will have to lay off the majority of its employees—one half to three-fourths of the employees—within 1 year and only perform those activities that are necessary to public safety. Clearwater County, with a population of approximately 8,000, faces the loss of more than $500,000, which will greatly impact public safety because of lost services for road maintenance and law enforcement. I am told that Boundary County, with a population of 11,000, will not be able to blacktop roads and will have to let them deteriorate to gravel-based roads. We simply cannot allow this to occur in any State in this Nation.

Congress needs to demonstrate it is serious about getting this done. Families in rural communities across this Nation deserve no less. It is shameful that Congress may be recessing once again and Members will be heading home to their home States without passing an extension. The word disappointing is an understatement. This puts services in rural communities across this Nation in jeopardy, and it is simply wrong. We all need to work together to make this more of a priority. Over the years, this has been a bipartisan effort, and that simply must continue. This takes the commitment of all of us, including administration, House and Senate leadership to get this done.

I understand that other domestic spending has been included in the supplemental. I won't for a second diminish the need for those funds, but I must point out that county payments are vitally important and deserve to be included in the supplemental as well. I will continue to work with my colleagues to press for the inclusion of county payment funds. In December, Senators CRAIG, SMITH, MURKOWSKI, MCCASKILL, DOLE, STEVENS and BENNETT joined me in urging the Senate leadership to attach a reauthorization of county payments and PILT funding to any legislative vehicles expected to be enacted before Congress concluded work for the year.

I continue to believe, as I did then, that we must pursue every opportunity to achieve enactment and attach an extension to every moving legislative vehicle. The counties of the United States which host our Federal properties are not allowed by Federal law to impose property tax on them for the services that those properties require.

This legislation honorably and fairly has met these responsibilities over the years until the last few years when Congress has struggled so hard to find its way through to extension and funding of these important needs.

I encourage my colleagues to act quickly, to act now, and to assure that we give the necessary priority to this county funding to get us past this crisis.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we have received a request that the distinguished senior Senator from Missouri, Mr. BOND, wishes to be recognized upon the conclusion of my remarks.

I ask unanimous consent that Senator BOND be recognized upon the conclusion of my remarks.

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

FISA

Mr. LEAHY. Mr. President, we have an ongoing debate on the whole question of FISA, the Foreign Intelligence Surveillance Act. Since the beginning of this debate, I have opposed legislation that does not provide some kind of accountability for the 6 years of illegal warrantless wiretapping that was started and, in fact, approved by this administration.

The bill that has been presented to the Senate, as it stands now, absent any amendments, seems intended to result in the dismissal of ongoing cases against the telecommunication carriers that participated in the warrantless wiretapping program. It would lead to the dismissal of the cases without allowing a court ever to review whether the program itself was legal.

So the bill would have the effect of ensuring that this administration, the administration that decided to carry out the illegal wiretapping, is never called to answer for its actions, and never held accountable in a court of law. I cannot support that result.

It is now almost 7 years since the President began an effort to circumvent the law in violation of the provisions of the governing statute, the Foreign Intelligence Surveillance Act.

I have said I believe that the conduct was illegal. In running its program of warrantless surveillance, the administration relied on result-oriented legal opinions. These opinions were prepared in secret. They were shown only to a tiny group of like-minded officials. This ensured, of course, that the administration received not independent legal advice, but the legal advice that it had predetermined it wanted.

A former head of the Justice Department's Office of Legal Counsel described this program as a ''legal mess.''

And this administration wants to make sure no court ever reviews this legal mess.

The bill presented to the Senate seems designed to ensure that they are going to get their wish. The administration worked very hard to ensure that Congress could not effectively review the program or the basis for its arguments for immunity.

Since the existence of the program became known through the press, the Judiciary Committee has repeatedly tried to obtain access to information its members needed so we could evaluate the administration's legal arguments, which are squarely under the jurisdiction of our committee.

Indeed, Senator SPECTER, when he was the chairman of the Judiciary Committee, prepared subpoenas to telecommunication carriers to obtain this information. He wanted information from the telecommunications carriers because the administration would not tell us directly what it had done. But those subpoenas sought by a Republican chairman were never issued.

As Senator SPECTER himself has explained publicly, Vice President CHENEY intervened with other Republican members of the Judiciary Committee to undercut Senator SPECTER, and, of course, the Vice President then succeeded in blocking the subpoenas.

It was only just before the Intelligence and Judiciary Committees' consideration of this bill that the Judiciary Committee members finally obtained access to some of the documents we had sought. I remind you, though, that most Members of this Chamber, most Senators called upon to vote, have not seen those documents. I have seen them, and I would hope that they would be made available to every Senator.

The Senators who have seen them have drawn very different conclusions. But no matter what conclusion you reach, you ought to get access to the documents so that you can make an informed judgment.

I will not discuss the documents that are still held in secret, but I will talk about the public reports. There are public reports that at least one telecommunications carrier refused to comply with the administration's request to cooperate with the warrantless wiretapping. All Senators should have had the opportunity to know those facts so they can make informed judgments whether there were legal claims that other carriers should have raised.

It is also clear that the Bush-Cheney administration did not want the Senate to evaluate the evidence and be able to draw its own conclusions. They wanted to avoid accountability.

Indeed, the Senate Select Committee on Intelligence, with all of the work it has done on this issue, has not conducted a review of the legality of the warrantless wiretapping program.

Now, I am not here to try to get the telephone companies. According to public reports, at least one company said no, presumably because it feared that by complying it would break the law. Other phone companies, according to the public statements, apparently believed they were doing what was best for their country. I am not out to get them.

In fact, I would have supported legislation to have the Government indemnify the telecommunications carriers for any liability incurred at the behest of the Government. As I said, it is not a case of going after the phone companies; I want accountability.

I supported alternative efforts by Senator SPECTER and Senator WHITEHOUSE to substitute the Government for the defendants in these cases. In other words, take the phone companies out and substitute the Government so the cases can proceed to a determination on the merits.

These alternatives would have allowed judicial review of the legality of the administration's acts—I think it is clear that the administration's actions were illegal—then let a court determine who was responsible for those actions.

This bill does not provide that accountability. As I read the language of the bill, it is designed to have the courts dismiss the pending cases if the Attorney General simply certifies to the court that the alleged activity was the subject of a written request from the Attorney General, and that request indicated the activity was authorized by the President and determined to be lawful.

In other words, if the Attorney General said: Well, I do not care what the law says, I have determined that the President does not have to follow the law. If the Attorney General says, in effect, notwithstanding the rule of law in this country, this President is above the law, so, therefore, nothing he does is illegal. These kinds of baseless legal conclusions could form the basis for immunity under this scheme.

That is really what this bill provides. That concerns me, as it should concern everybody. We should not be dismissing Americans' claims that their fundamental rights were violated based on the mere assertion of a party in interest that what it did was lawful.

Think about it: this would be like a police officer catching someone committing a burglary and saying: I am going to arrest you for burglary. And the burglar sitting there with a bag of burglary tools, having broken in the door, saying: You cannot do that because I thought about this breaking and entering. I decided that in my case it is not illegal. And then the police officer has to say: Gee, I am sorry for the inconvenience, sir, go on your merry way.

That is what we are saying. Or actually, it is even worse than that. It is as if they actually arrested that burglar, they brought him into court, and the burglar stands up and says: Your Honor, I determined all by myself—disregarding you, Your Honor; disregarding the evidence, I determined all by myself—that even though I was involved in a burglary, I should not even be subject to the court's jurisdiction because I say that what I did was legal. Goodbye, Your Honor. Have a nice day. I am leaving.

That is what we are doing with this bill. In fact, there is not even a determination by the current Attorney General that the wireless wiretapping program was lawful, perhaps because he could not make such a determination. But all he has to do to ensure immunity is to certify that the phone company acted at the behest of the administration and that the administration indicated that the activity was determined to be lawful.

Regardless of whether or not it actually was lawful, all the Attorney General has to say is that it was determined to be lawful. We are not going to tell you when that determination was made. We are not even going to tell you whether the people who made that determination went to law school. It is lawful because the President is above the law; therefore, we are off the hook.

I believe the rule of law is important. I do not believe any one of us, the 100 of us in this body, is above the law. I have been here with six Presidents. I do not believe any one of them, Republican or Democratic Presidents, is above the law. I do not believe Congress should try to put a President above the law and seek to take away the only viable avenue for Americans to seek redress for harm to their privacy and liberty, and the only viable avenue of accountability for the administration's lawlessness.

Why should we, the United States Senate, the conscience of the Nation, why should we sit here and say: We are going to condone lawlessness, and even more importantly, we 100 people, acting on behalf of 300 million other Americans, are saying: We are never even going to let you know who committed the unlawful acts and why.

Now, I recognize this legislation also contains important surveillance authority. I support this new authority. I worked for years to craft legislation that provides that important authority along with appropriate protections for privacy and civil liberties. I have voted for dozens of changes in the FISA legislation to be able to help our intelligence agencies.

In fact, the Senate Judiciary Committee, under my leadership, reported such a bill last fall. So I commend House Majority Leader HOYER and Senator ROCKEFELLER, who negotiated this legislation, for incorporating several additional protections to bring it closer to the bill we voted out of the Judiciary Committee.

I note, in particular, the requirement of an inspector general review of this administration's warrantless wiretapping program. It is a provision I have advocated at every single meeting we have had, open or closed, through the course of the consideration of these matters. This review will provide for a

comprehensive examination of the relevant facts about this program.

Actually, it should prove useful to the next President. I believe we should have still more protections for privacy and civil liberties. If this bill becomes law I will work with the next administration on additional protections. Despite some improvements to the surveillance authorities the bill authorizes, improvements I support, I will not support this legislation. The administration broke the law. They violated FISA by conducting warrantless surveillance for more than 5 years, and they got caught. Now they want us to cover their actions. They want us to say: That's OK. Even though we don't know which one of you decided to break the law, we are going to let you all off the hook. The apparent purpose of title II of this bill is to ensure that they will not be held to account. That is wrong. I will, therefore, oppose cloture on the motion to proceed to the measure. If the Senate proceeds to the bill, I will then support amendments to its unaccountability provisions, including an amendment to strike the immunity provisions. But if those are not successful, I will have to vote against it.

The bottom line is this: In America, nobody should be above the law. One thing unites every single Senator. We want to keep our great and good country safe. We all want to stop terrorists. We have spent hundreds of billions of dollars to do that. We have procedures to do that. But one of the principles of this country and something we have always preached to other countries is, that in good times and bad times, we follow the law. We did this during two world wars, in the Revolutionary War and in the Civil War.

I am imploring the Senate not to turn its back on over 200 years of history of following the law and saying, in this situation, we are going to condone an administration that broke the law. I cannot vote for that. I cannot in good conscience vote for that. I cannot be true to my own oath of office and vote for that. Certainly, I would not want to tell the people of Vermont I voted for that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask unanimous consent that after my remarks, the Senator from California, Mrs. FEINSTEIN, be recognized, and that she be followed by the Senator from Georgia, Mr. CHAMBLISS.

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

Mr. BOND. Mr. President, while my good friend from Vermont was on the floor, I thought he raised some good questions. I believe we have good answers for those questions. I know of his dedication and commitment to the rule of law and accountability, his very distinguished service as head of the Judiciary Committee. But there are several things I would point out.

No. 1, we have been working on this entire issue of the President's terrorist surveillance program for better than a year now. We have reviewed all of the documents. We have had all of the people who administered the program, who have given opinions on it, come in. I dispute his statement that there were 6 years of unlawful activity of the President. He said no court will be able to review the illegality; no independent officials have reviewed it.

First, it is my understanding, although I was not one of them, that the big eight at the time—that is, the Republican and Democratic leaders of the House and the Senate and the leaders of their Intelligence Committees—were briefed on this program before it started. I don't know the substance of the briefing. I would imagine that they told them the problems in the existing old FISA law would make it difficult to implement that law, given the new technology which, in fact, was the case. In any event, it went forward.

When the program was finally disclosed and briefed to the Intelligence Committee, I spent a good bit of time reviewing that. I have studied constitutional law and made constitutional law arguments before. I believe if my friends who have questions about it will check the Constitution and the appellate court's interpretation of article II, they will find that they assume the President does have power to collect foreign intelligence information as an adjunct to his responsibility to conduct foreign affairs.

There is no question that Congress cannot pass a law abrogating that constitutional right. As a matter of fact, in one of the released cases, one of the cases made public by the Foreign Intelligence Surveillance Court, or FISC, they noted that Congress could not abrogate that constitutional right. It would be unconstitutional. For those who raise the test of the steel cases, I don't necessarily accept that test, that the enactments of Congress can affect the measure of credibility and extent of the President's power. The Congress did pass the authorization for the use of military force prior to the imposition of the terrorist surveillance program. We had access to the documents. Based on review of the documents, the Senate Intelligence Committee, by a vote of 13 to 2, passed out the bill which is the essential framework that is before us.

The courts can review to see that there are certifications by the Attorney General, directives by the President, and only if they find no substantial evidence to support that, then the suits will be dismissed.

My friend from Vermont said we ought to substitute the Government for the phone company for judicial review. There is another provision in the bill he should understand. If you want to sue the Government, there is no ban in this bill on suing the Government or suing Government officials. That can go forward. That is not affected by this bill. There has been extensive discussion over the legality of it. For those who wish to have a trial on the legality of the program, there are other means still available. To penalize a phone company or other carrier which, in good faith reliance on a representation of the Attorney General and the President of the United States, carried out a program that I believe is lawful to protect American citizens, I think is totally unwarranted.

Let me describe today for my colleagues and for those who may be interested this long and difficult process which I believe has finally accomplished its goal. This week we have a chance to tell the American people that the intelligence community on which our citizens, our troops, and our allies rely to keep us safe from terrorists and other forms of evil in the world can continue to do its job. We can tell those companies that answered their Government's call for help in the aftermath of the September 11 terrorist attacks that a grateful nation stands behind them and that they will be given the civil liability protection they rightly deserve.

I strongly support voting for cloture on the motion to proceed to H.R. 6304, the FISA Amendments Act, this afternoon. I strongly encourage my colleagues not only to do the same but also to oppose any amendments offered to it. We have finally struck a deal with the House, and the House honored the deal last Friday by allowing no amendments on the House floor. I ask my colleagues to hold up our end of the bargain. While it is in every Senator's right to offer an amendment, I urge my colleagues to vote down all amendments no matter what they may be so that we may send the bill immediately to the President for signature and make sure we don't have further gaps in our intelligence system which could appear once again if we do not pass this in a timely fashion. If we send it back to the House, there is no telling when a final bill could be back here for passage.

Let me describe briefly how we got here. Approximately a year ago, Director of National Intelligence ADM Mike McConnell came to Congress and asked that we update the Foreign Intelligence Surveillance Act. Changes in technology resulted in court rulings or interpretations that made it very difficult to use electronic surveillance effectively against terrorist enemies overseas. The problem came to a head in May 2007, with a ruling that caused significant gaps in collection. Although the DNI at the time pleaded to Congress to help, the leadership of Congress did not move.

In the looming pressure of the August recess, the Republican leader, Senator MCCONNELL, and I cosponsored the Protect America Act which Congress passed the first week of August last year. The act did exactly what it

was intended to. It closed the intelligence gaps that threatened the security of our Nation and of our troops. But it was lacking in one important aspect, as we were not able to include in it the retroactive civil liability protection from ongoing frivolous lawsuits against those partners who had assisted the intelligence community in the President's program.

Following the passage of the Protect America Act, I am proud to say that Senator ROCKEFELLER and I worked on a bipartisan basis to come up with a permanent solution to modernize FISA and give those private partners the needed retroactive liability protection. We worked closely for months with the DNI, Department of Justice, and their experts from the intelligence community to ensure there would be no unintended operational consequences from any of the provisions included in our bipartisan product. In February of this year, after many hearings, briefings, and a lot of debate on the Senate floor, the Senate passed the FISA amendments by a strong bipartisan vote of 68 to 29.

The bill coming out of the Senate reflected the Intelligence Committee's conclusion that the electronic communication service providers who assisted the President's TSP acted in good faith and deserved civil liability protection from frivolous lawsuits. The Senate bill also went farther than any legislation in history in protecting the privacy interests of American citizens or U.S. persons whose communications might be acquired through targeting overseas. It also required the FISA approval to target U.S. persons overseas, if they are going to have collection initiated against them.

At the end of the day, there were many difficult compromises. Both sides gave, and we came up with a bill that was not only bipartisan but the best piece of effort we could get out of this legislative process.

Although the Senate passed the bill before the Protect America Act expired, in the House there was a clear majority. But the leadership didn't let it come up. They went on recess. In the days following the expiration, private partners refused to provide intelligence information, frankly, in light of the ongoing litigation, the tremendous threat to their business franchise, the fact that they and, particularly their shareholders, who may be retired persons depending on pensions and others, could be losing billions of dollars in the marketplace because of the size of these outrageous lawsuits seeking billions of dollars, when, in my view, there was no damage and no grounds for recovery. Fortunately, after several days' negotiation, the intelligence community was able to get the providers to resume cooperation, but the intelligence lost in that time was gone, and we will never know what we missed because the House leadership refused to bring up the Senate bill.

Some have accused me and my colleagues of saying at the time, falsely, that the sky was falling. For a few days the sky was falling until a tenuous agreement was worked out between the executive branch and the providers. But the agreement was all predicated upon ongoing work to pass a FISA modernization law in the near term. That is another reason why it is vital the Senate move immediately to consider the FISA Amendments Act. Once the House returned from the Easter recess, my good friend and fellow Missourian, majority whip ROY BLUNT, and I met with the House majority leader, STENY HOYER, asking him what he thought the House needed in order to allow the Senate bill a vote on the House floor. We and our staffs began discussions and sent proposals back and forth attempting to come together. During that time, ROY BLUNT and I conferred repeatedly with Congressmen HOEKSTRA and SMITH and, of course, vetted our proposals with the intelligence community.

Finally, after four personal meetings over 2 months—and a tremendous amount of staff work—between Majority Leader HOYER, Minority Whip BLUNT, and me—Whip BLUNT and I delivered a proposal to Mr. HOYER before Memorial Day, a deadline he had set.

This agreement was one that had been signed off on and fully discussed with Mr. HOEKSTRA, the vice chairman of the House Intelligence Committee, and LAMAR SMITH, the ranking member of the Judiciary Committee. We felt this was the best offer we could make on behalf of the Republicans in the House and Senate, and it was agreed to by the intelligence community.

The Memorial Day deadline, however, came and went, and again the House went on recess. Finally, after more interaction among our staffs, I received word 2 weeks ago that the House Democrats were ready to work out final language. So Leader HOYER and Whip BLUNT and I met for a fifth time, this time inviting my colleague, JAY ROCKEFELLER, to join us in the final negotiations. On June 12, the Democratic House leaders gave up their idea of having a commission take a look at the surveillance program, which we believe would have been political, further interfering with the work of the Intelligence Committee and perhaps community, and perhaps lead to increased leaks about the program.

They agreed on a longer sunset than in previous bills. We abandoned the idea that the FISA Court should be the one to assess compliance with the minimization procedures used in foreign targeting. With the concessions Republicans and the administration had already made, along with some minor technical fixes, I am proud to say the intelligence community was given the flexibility and tools it needs to keep us safe. We had a compromise.

Now, I offer all that as background so the record is clear. That brings us where we are today. Once we get on the bill, I will explain what is before us, and I will explain how statements from some about this legislation is nothing short of fear mongering, such as from those who are saying all Americans who talk to anyone overseas will be listened to by the Government. That is flat wrong.

Americans cannot be targeted without a court order, period. If someone overseas is targeted and talks to an American, then the American's end of the communication is what we call minimized, which means it is hidden, protected, suppressed. I will elaborate further on this. But at this time, I simply ask my colleagues to vote for cloture so we may move immediately to the bill.

I note some of my colleagues from the Senate Intelligence Committee are seeking recognition, and I appreciate the work all members of the committee have done. I see my colleague from Georgia, who has been an outstanding help, and the Senator from California, who has offered many useful ideas. This has been truly a year's long work, and we are happy to bring the final process before the Senate today.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, it is my understanding I am next in the order. I ask unanimous consent that following my presentation the Senator from Vermont be recognized on our side. I know Senator CHAMBLISS is here on the Republican side and wishes to speak.

Mr. CHAMBLISS. Mr. President, reserving the right to object, can we propose a unanimous consent request that following Senator FEINSTEIN, I be recognized to speak, and then Senator SANDERS will be next?

The ACTING PRESIDENT pro tempore. I believe that was the Senator's request.

Mrs. FEINSTEIN. That was the intent.

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

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, I begin my remarks by thanking the chairman of the Intelligence Committee, Senator ROCKEFELLER, and the vice chairman of the Intelligence Committee, Senator BOND, the House Speaker, and the House leadership for their distinguished work on this piece of legislation. This has not been easy. It is certainly not without controversy. There are some major challenges to work through.

I want to begin by putting my remarks, at least, in context.

There is no more important requirement for national security than obtaining accurate, actionable intelligence. At the same time, there have to be strong safeguards in place to ensure that the Government does not infringe on Americans' constitutional rights.

Yet if Congress does not act and pass this bill, as it was passed overwhelmingly in the House, both of these goals,

I believe, are in jeopardy. Here is why. If this bill does not pass, our Nation would likely be forced to either extend the Protect America Act or leave the Nation bare until a new bill can be written. Neither of these are good options.

As I will describe, the Protect America Act does not adequately protect Americans' constitutional rights. It was written to be a temporary measure for 6 months, and it expired on February 5.

What many people do not understand is that surveillance conducted under the Protect America Act will cease by the middle of August. It will be impossible to write a new bill, to get it past both Houses, to have it signed by the President in time to meet this deadline.

If that bill expires without this Congress passing new legislation, we will be unable to conduct electronic surveillance on a large number of foreign targets. In other words, our intelligence apparatus will be laid bare and the Nation will go into greater jeopardy. I truly believe that.

The FISA legislation of 1978 cannot accommodate this number of targets. It is simply inadequate for this new task due to changes in technology and the communications industry. That is precisely why FISA needs to be modernized.

So taking no action means we will be opening ourselves, in my view, to the possibility of major attack. This is unacceptable.

So as I see it, our choice is a clear one: We either pass this legislation or we extend the Protect America Act. For me, this legislation is much the better option.

This bill, in some respects, improves even on the base bill, the 1978 Foreign Intelligence Surveillance Act. It provides clear protections for U.S. persons both at home and abroad. It ensures that the Government cannot conduct electronic surveillance on an American anywhere in the world without a warrant. No legislation has done that up to this point.

I think the improvements in this bill over the Protect America Act and the 1978 legislation are important to understand, and I wish to list a few.

First, prior court review. This bill ensures that there will be no more warrantless surveillance. Now, why do I say this? Under the Protect America Act—which is expiring, but we are still collecting surveillance under it for now—the intelligence community was authorized to conduct electronic surveillance for a period of 4 months before submitting an application for a warrant to the FISA Court. Surveillance could actually proceed for 6 months before there was a warrant.

Under this bill, the Government must submit an application and receive a warrant from the FISA Court before surveillance begins. No more warrantless surveillance. This is, in fact, a major point.

In emergency cases, there can be a short period of collection—up to 7 days—as the application is prepared. There has been a provision for emergency cases under FISA for some 30 years now. So that is prior court review for a U.S. person anywhere in the world if content is collected.

Meaningful court review. This bill strengthens court review. Under the Protect America Act, the Government submitted to the FISA Court its determination that procedures were in place to ensure that only people outside the United States would be targeted. The court could only reject an application for a warrant if it found that determination to be ''clearly erroneous.'' This bill returns to the traditional FISA standard, empowering the court to decide whether the Government's determination is ''reasonable.'' This is a higher standard of review, so the court review under this bill is meaningful.

Next, minimization. These first two improvements ensure that the Government will only be targeting people outside the country. That is good, but it is not enough. There is always the possibility of someone outside the country talking to a U.S. person inside the country. The bill addresses this with a process known as minimization.

In 1978, Congress said that the Government could do surveillance on U.S. persons under a court warrant, but required the Government to minimize the amount of information on those Americans who get included in the intelligence reporting. In practice, this actually means that the National Security Agency only includes information about a U.S. person that is strictly necessary to convey the intelligence. Most of the time, the person's name is not included in the report. That is the minimization process.

If an American's communication is incidentally caught up in electronic surveillance while the Government is targeting someone else, minimization protects that person's private information.

Now, the Protect America Act did not provide for court review over this minimization process at all. But this bill requires the court in advance to approve the Government's minimization procedures prior to commencing with any minimization program. That is good. That is the third improvement.

Fourth, reverse targeting. There is an explicit ban on reverse targeting. Now, what is reverse targeting? That is the concern that the National Security Agency could get around the warrant requirement. If the NSA wanted to get my communications but did not want to go to the FISA Court, they might try to figure out who I am talking with and collect the content of their calls to get to me. This bill says you cannot do that. You cannot reverse target. It is prohibited. This was a concern with the Protect America Act, and it is fixed in this bill.

Those are four reasons—good reasons. Here is a fifth: U.S. person privacy outside the United States. This bill does more than Congress has ever done before to protect Americans' privacy regardless of where they are, anywhere in the world. Under this bill, the executive branch will be required to obtain a warrant any time it seeks to direct surveillance at a U.S. person anywhere in the world. So any U.S. person anywhere in the world is protected by the requirement that a warrant must be received from the Foreign Intelligence Surveillance Court before electronic surveillance can begin.

Previously, FISA only covered people inside the United States. The Protect America Act did the same thing.

Now, also under this bill, there will be reviews of surveillance authorities by the Director of National Intelligence, the Attorney General, the heads of all relevant agencies, and the inspectors general of all relevant agencies on a regular basis, and the FISA Court and the Congress will receive the results of those reviews.

So there will be regular reporting from the professionals in the arena on how this bill is being followed through on—how electronic surveillance is being carried out worldwide. The Intelligence and Judiciary Committees will receive those reports. That, too, is important.

Also, under this bill, there will be a retrospective review of the President's Terrorist Surveillance Program. That is the program that has stirred the furor. The bill requires an unclassified report on the facts of the program, including its limits, the legal justifications, and the role played by the FISA Court and any private actors involved. This will provide needed accountability.

In summary, all intelligence collection under the Terrorist Surveillance Program will be brought under court review and court orders.

Everything I have described brings this administration back under the law. There is no more Terrorist Surveillance Program. There is only court-approved, Congressionally reviewed collection.

But what is to keep this administration or any other administration from going around the law again? The answer is one word, and it is called exclusivity.

It means that the Foreign Intelligence Surveillance Act is the only, the exclusive, means for conducting electronic surveillance inside the United States for foreign intelligence purposes.

The exclusivity language in this bill is identical in substance to the amendment I offered in February, which received 57 votes in this Senate. It is section 102 of this bill.

This language reiterates what FISA said in 1978, and it goes further. Here is what this bill says:

Never again will a President be able to say that his authority—or her authority, one day, I hope—as Commander in Chief can be used to violate a law duly enacted by Congress.

Never again can an Executive say that a law passed to do one thing—such as use military force against our enemies—also overrides a ban on warrantless surveillance. The administration has said that the resolution to authorize the use of military force gave this President the right to go around FISA.

Never again can the Government go to private companies for their assistance in conducting surveillance that violates the law.

Now, this administration has a very broad view of Executive authority. Quite simply, it believes that when it comes to these matters, the President is above the law. I reject that notion in the strongest terms.

I think it is important to review the recent history with this administration to demonstrate why FISA exclusivity is so important.

At the very beginning of the Terrorist Surveillance Program, John Yoo, at the Office of Legal Counsel, wrote in a legal opinion that:

> . . . [u]nless Congress made a clear statement in the Foreign Intelligence Surveillance Act that it sought to restrict presidential authority to conduct warrantless searches in the national security area—which it has not—then the statute must be construed to avoid [such] a reading.

That was the argument. I believe it is wrong. Congress wrote FISA in 1978 precisely in the field of national security; there are other, separate laws that govern wiretapping in the criminal context. In fact, the Department of Justice has repudiated Yoo's notion.

But if the Department admitted that FISA did apply, it found another excuse not to take the Terrorist Surveillance Program to the FISA Court.

The Department of Justice developed a new, convoluted argument that Congress had authorized the President to go around FISA by passing the authorization to use military force against al-Qaida and the Taliban.

This is as flimsy as the last argument.

There is nothing in the AUMF that talks about electronic surveillance or FISA, and I know of not one Member who believed we were suspending FISA when we authorized the President to go to war.

But that is another argument we lay to rest with this bill. Here is how we do it. We say in the language in this bill that FISA is exclusive. Now, here is the major part: Only a specific statutory grant of authority in future legislation can provide authority to the Chief Executive to conduct surveillance without a FISA warrant.

So we go a step further in exclusivity. We cover what Yoo was trying to argue and what others might argue on behalf of a Chief Executive in the future, by closing the loophole and saying: You need specific statutory authority by the Congress of the United States to go outside the law and the Constitution.

The final argument the President has made is that even if FISA was intended to apply, and even if the AUMF didn't override FISA's procedures, he still had the authority as Commander in Chief to disregard the law.

Now, I have spoken on the floor before about how the President believes he is above the law and the Youngstown Sheet and Tube Company v. Sawyer case. In that case, Justice Jackson described how the President's power is at the ''lowest ebb'' when he is acting in contravention to the will of the Congress.

This bill, again, makes it clear that the will of Congress is that there will be no electronic surveillance inside the United States without a warrant, and it makes clear that any electronic surveillance that is conducted outside of FISA or outside of another express statutory authorization for surveillance is a criminal act. It is criminalized. This is the strongest statement of exclusivity in history.

The reason I am describing all this is to build a case of legislative intent in case this is ever litigated, and I suspect it may well be.

So, finally, I wish to read into the RECORD the comments on exclusivity from a June 19, 2008, letter that Attorney General Mukasey and Director of National Intelligence McConnell wrote to the Congress. The letter recognizes that the exclusivity provision in this bill ''goes beyond the exclusive means provision that was passed as part of FISA [in 1978].''

So they essentially admit we are taking exclusivity to a new high. Nevertheless, they acknowledge that the provision in this bill ''would not restrict the authority of the government to conduct necessary surveillance for intelligence and law enforcement purposes in a way that would harm national security.''

I said in February I could not support a bill without exclusivity. This is what keeps history from repeating itself and another President from going outside the law. I believe that with this language we will prevent it from ever happening again.

Now, a comment on title II of the bill, which is the telecom immunity section. This bill also creates a legal process that may—and, in fact, is likely to—result in immunity for telecommunications companies that are alleged to have provided assistance to the Government.

I have spent a great deal of time reviewing this matter. I have read the legal opinions written by the Office of Legal Counsel at the Department of Justice. I have read the written requests to telecommunications companies. I have spoken to officials inside and outside the Government, including several meetings with the companies alleged to have participated in the program.

The companies were told after 9/11 that their assistance was needed to protect against further terrorist acts. This actually happened within weeks of 9/11. I think we can all understand and remember what the situation was in the 3 weeks following 9/11.

The companies were told the surveillance program was authorized and that it was legal, and they were prevented from doing their due diligence in reviewing the Government's request. In fact, very few people in these companies—these big telecoms—are actually cleared to receive this information and discuss it. So that creates a very limited universe of people who can do their due diligence within the confines of a given telecommunications company.

For the record, let me also address what I have heard some of my colleagues say. At the beginning of the Terrorist Surveillance Program, only four Senators were briefed. The Intelligence Committee was not, other than the Chairman and Vice Chairman.

I am one who believes it is right for the public and the private sector to support the Government at a time of need. When it is a matter of national security, it is all the more important.

I think the lion's share of the fault rests with the administration, not with the companies.

It was the administration who refused to go to the FISA Court to seek warrants. They could have gone to the FISA Court to seek these warrants on a program basis, and they have done so subsequently.

It was the administration who withheld this surveillance program from the vast majority of Members of Congress, and it was the administration who developed the legal theories to explain why it could, in fact, go around the law.

So I am pleased this bill includes independent reviews of the administration's actions to be conducted by the inspectors general of the relevant departments.

All of that said, when the legislation was before the Senate in February, I stated my belief that immunity should only be provided if the defendant companies acted legally, or if they acted in good faith with a reasonable belief that their actions were legal. That is what the law calls for.

I moved an amendment to require the court to review the written requests to companies to see whether they met the terms of the law. That law requires that a specific person send a certification in writing to a telecommunications company. That certification is required to state that no court order is required for the surveillance, that all statutory requirements have been met, and that the assistance is required by the Government.

Unfortunately, my amendment was not adopted, but I continue to believe it is the appropriate standard.

Now, the pending legislation does not assess whether the request made by the Government was, in fact, legal, nor whether the companies had a good-faith and objective belief that the requests were legal. What this bill does provide is a limited measure of court

review. It is not as robust as my amendment would have provided, but it does provide an opportunity for the plaintiffs to be heard in court, and it provides an opportunity for the court to review these request documents.

I believe the court should not grant immunity without looking into the legality of the companies' actions. So if there is an amendment that does support this, I would intend to vote for it.

But I believe the RECORD should be clear in noting that if this bill does become law, in my view, it does not mean the Congress has passed judgment on whether any companies' actions were or were not legal. Rather, it should be interpreted as Congress recognizing the circumstances under which the companies were acting and the reality that we desperately need the voluntary assistance of the private sector to keep the Nation secure in the future.

I believe this bill balances security and privacy without sacrificing either. It is certainly better than the Protect America Act in that regard, and makes improvements over the 1978 FISA law.

As I said, if a new bill is not in place by mid-August, the Nation will be laid bare and unable to collect intelligence.

This bill provides for meaningful and repeated court review of surveillance done for intelligence purposes. It ends, once and for all, the practice of warrantless surveillance, and it protects Americans' constitutional rights both at home and abroad. It provides the Government with the flexibility it needs under the law to protect our Nation. It makes it crystal clear that this is the law of the land and that this law must be obeyed.

I yield the floor.

The PRESIDING OFFICER (Mr. WEBB). The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the unanimous consent agreement be amended, and that following my comments, Senator SANDERS be recognized, and that following Senator SANDERS, Senator HATCH be recognized.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I wish to speak about H.R. 6304, the Foreign Intelligence Surveillance Act Amendments Act.

Before I do that, I wish to make a couple comments relative to the comments made by my colleague from California regarding the TSP or terrorist surveillance program implemented by the President within days after September 11, and make sure Americans are very clear about two points: First of all, Congress did know about this program. Members of Congress were briefed throughout the duration of this program. Members of Congress were briefed on a regular basis. That doesn't mean every Member of Congress but the leadership knew exactly what was going on, exactly what the President was doing. They were kept very informed.

Secondly, the targets of the terrorist surveillance program were not Americans; the program targeted the communications of al-Qaida, that we knew—not guessed but that the intelligence community knew were used by al-Qaida. Today, al-Qaida gets up every morning, just as they did before and after September 11, and they think of ways to kill and harm Americans. Our intelligence community, without getting into the details of it, suffice it to say, has done a magnanimous job since then in protecting Americans.

The fact that we have not suffered another attack on domestic soil since then indicates the terrific job that members of the intelligence community have done. The terrorist surveillance program that was implemented by the administration immediately after September 11 is a major factor in why we have not suffered another act of terrorism on domestic soil. Information gathered from the terrorist surveillance program was used rightly to disrupt terrorist activity, both domestically as well as abroad. Some of the instances where the terrorist surveillance program has stopped attacks and saved lives are very public right now.

Again, I rise to comment on H.R. 6304. This critical legislation has been the subject of many negotiations and, although the legislation is not perfect, I am pleased with the bipartisan nature of this compromise bill. I commend Vice Chairman BOND, Congressman HOYER, and Congressman BLUNT on their work.

I am satisfied that this legislation will provide our intelligence agencies with the legal tools necessary to perform their jobs, the flexibility they require, and the capability to protect Americans' civil liberties. However, I am perplexed it has taken Congress this long to adopt meaningful legislation necessary to protect our country; legislation which Congress knew, at least since last August, needed to be enacted expeditiously. Normally, Congress is accused of being guided by expediency rather than principle but not usually in national security matters. Intelligence is bipartisan. Securing our Nation is bipartisan. It is in every American's interest that Congress act quickly to protect our Nation from terrorist attack, espionage, or any other harm. Yet the bill before us now is substantially the same as S. 2248, which was drafted in a bipartisan nature by Senators ROCKEFELLER and BOND and passed the Senate over 4 months ago, on February 12, 2008, with a supermajority vote of 68 in favor and only 29 in opposition.

Last summer, our intelligence community officials informed us that, as a result of a decision by the FISA Court and changes in technology, they had lost the ability to collect intelligence on terrorists around the world who wish to harm the United States. Congress responded to these pleas from our intelligence community and passed the Protect America Act, which temporarily fixed this problem, but we knew then we had to have a more permanent solution. Despite this knowledge and despite the hard work of the Senate Intelligence Committee for the previous 10 months, Congress failed to fix FISA in February. The House leadership refused to consider the Senate-passed bill, despite stated support from a majority of that body's members. I can only surmise that there were political, rather than substantive, reasons that prevented this legislation from passing months ago. Some may say this is the nature of one of the political branches of Government. What no one talks about is the harm this has caused.

But, as a result of the Protect America Act's expiration, our collection efforts have been degraded. The public likely is not aware, nor may be many Members of this Chamber, but the members on the Senate Select Committee on Intelligence have heard regularly about the disruptions and legal obstacles that have occurred as a result of our inaction. The week after the Protect America Act expired, the Director of National Intelligence told us that ''we have lost intelligence information this past week as a direct result of the uncertainty created by Congress' failure to act.'' Gaps in our intelligence collection began to resurface, and it has had a real and negative impact on our national security.

Our intelligence collection relies on the assistance of U.S. telecommunications carriers. These communication providers are facing multimillion dollar lawsuits for their alleged assistance to the Government after September 11, 2001. After the expiration of the Protect America Act, many providers began to delay or refuse further assistance. Losing the cooperation of just one provider could mean losing thousands of pieces of intelligence on a daily basis. According to the Director of National Intelligence, uncertainty about potential liability caused many carriers to question whether they could continue to provide assistance after the expiration of the Protect America Act.

In just 1 week after its expiration, we lost significant amounts of intelligence forever. We will never be able to recover those lost communications, nor will we ever know what we missed.

For this reason, it is crucial that any FISA legislation include retrospective, as well as prospective, immunity for telecommunications providers who assist the Government in securing our national security. Title II of this bill, just as title II of S. 2248, provides the minimum protections needed for our electronic service providers. In a civil suit against a communications provider, the Government may submit a certification that any assistance provided was pursuant to a Presidential authorization and at the time determined to be lawful. The district courts may review this certification, and if it finds that it is supported by substantial evidence, the court must dismiss

the case. This is not a commentary on, or a court sanction of, the President's alleged terrorist surveillance program. It is the right thing to do.

Unlike many countries which regularly suppress an individual's speech or violate an individual's right to privacy, a cornerstone of our democratic and free society is a limited Government—one that doesn't sanction Government intrusion on an individual's private life. The Government cannot infringe upon an individual's rights without due process. But, in order to preserve those rights, Americans rely upon the Government to provide that freedom and security to protect them from harm, whether it be from a criminal on the streets or from an international terrorist.

Under U.S. criminal law, the U.S. frequently requests the assistance of private citizens and companies in order to combat crime. These companies provide assistance, usually pursuant to a court order—but not always—to help keep Americans safe. When assistance is needed to combat terrorism overseas, patriotic U.S. companies step up to the plate and help their country. At a minimum, these companies rely upon Government assurances that their assistance is lawful. When sued in a court, they are sometimes unable to supply a defense for their actions without exposing Government secrets or jeopardizing Government investigations. Instead, they rely on the Government to come to their defense and assert Government sanction. In the case of the President's terrorist surveillance program—which despite leaks in the press, remains highly classified and secret—these companies are defenseless. If the Government can show a court its assurances—still classified—that the assistance was lawful, and the court determines upon substantial evidence that the company acted pursuant to a Presidential authorization or other lawful means, then our American companies should not be liable.

If any constitutional or privacy violation occurred, an aggrieved individual may still sue the Government. This bill, however, assures America's corporations that their good-faith assistance will not subject them to frivolous lawsuits from individuals who really are alleging a claim against the Government, not those who assist it. Ordinarily, Americans should be protected against Government intrusion, but it should not be at the cost of higher phone and Internet access bills for customers just so these corporations can defend themselves against frivolous lawsuits.

This legislation preserves liability protection for Americans, and I am pleased to see that our bipartisan, bicameral negotiators sustained this provision. Title II of this legislation is largely the same as what was in the Senate-passed bill. I commend the House for passing legislation including this provision and the Senate for now taking much-needed action.

One thing that came out of the debate on this particular aspect of the bill within the Intelligence Committee was the fact that in this situation it is pretty obvious that the Government was in a crisis situation just following September 11. We had just been attacked by terrorists. We needed the assistance of private corporations in America. When we asked for their assistance, they stepped up to the plate. We know it is going to happen again. It may not be a terrorist attack next time; it may be some other crisis that is inflicted upon America. At that point in time, we are going to need the assistance of the private sector in America again. If we don't tell the private sector, in this particular case, that we are going to protect them and make sure they suffer no loss as a result of stepping up to help protect Americans following September 11, then should we expect the private sector to step up next time, whatever the crisis may be? The answer to that is obvious, and, in a very bipartisan way within the Intelligence Committee, there was general agreement that is the way we should proceed.

The only real and meaningful differences between this bill and the Senate-passed bill are more judicial involvement in the President's constitutional duty to conduct foreign affairs and protect our Nation. Our intelligence agencies will be allowed to collect intelligence against individuals located outside the United States, without having to first seek individual court orders in each instance.

Rather than having to seek numerous court orders and losing time and valuable collection opportunities, this legislation will require a reasonable belief that the target is outside the United States, so our intelligence analysts have the ability to assess and task new collection in real time; that is, before the bad guys get away, switch phones, and continue their planning. Unlike the Senate-passed bill, this legislation requires prior court review and approval of the targeting and minimization procedures submitted by the Attorney General, our chief law enforcement and legal advisor, and the Director of National Intelligence, our primary national security adviser.

I wish to state in the record that the exigent circumstances provision included in this legislation is not meant to be limited. Rather, it is a provision necessary to allow the retention of intelligence gathered in those situations where prior court approval was not practical.

Under no circumstance is it acceptable for intelligence gathered under an exigent circumstance, and later found to be acceptable by the court, to be discharged. Intelligence does not wait for court orders, and it must be collected timely. The intelligence community should not have to wait for a court order to continue collection against those who seek to harm America. If the court later determines that the targeting and certifications were lawful, then our intelligence officials should be allowed to review that which was collected.

It is now time for us to make more permanent changes to FISA to ensure we have the ability to obtain intelligence on terrorists and our adversaries. Although not a perfect bill, the FISA Amendments Act will fill the gaps identified by our intelligence officials and provide them with the tools and flexibility they need to collect intelligence from targets overseas, while at the same time providing significant safeguards for the civil liberties of Americans. This bill will ensure that we do not miss opportunities to target and collect foreign terrorist communications just because our operators had to get permission from a U.S. court first.

Let me be clear, these amendments to FISA would only apply to surveillance directed at individuals who are located outside of the United States. This is not meant to intercept conversations between Americans or even between two terrorists who are located within the United States. The Government still would be required to seek the permission of the FISA Court for any surveillance done against people physically located within the United States, whether a citizen or not.

In fact, this legislation will provide new protections for U.S. citizens under our law. Under this bill, for the first time, a court order must be obtained to conduct electronic surveillance for foreign intelligence purposes against an American who is located outside the United States. It also includes a prohibition on reverse targeting; that is, our intelligence agencies will not be allowed to target an individual overseas with the intent and purpose of obtaining a U.S. person's communications.

I am satisfied that the FISA Amendments Act will close gaps in our intelligence collection as well as provide some legal certainty to those patriotic companies that assist us. I urge my colleagues to support this bill and give our professional intelligence officials the confidence they need to secure our Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, I come to the floor today to express my strong opposition to H.R. 6304, the FISA Amendments Act, and my opposition to invoking cloture on the motion to proceed to this legislation.

Let me tell you what I think this debate is about and what it is not about. What it is not about is whether anyone in the Senate or the Congress is not going to do everything he or she can to protect the American people from another terrorist attack. It is not about whether we are going to be as vigorous as we can in hunting down terrorists. It is not about whether we are going to be vigilant in the war against terrorism. That is what it is not about. What it is

about essentially is whether we can be forceful and successful in fighting terrorism while we protect the constitutional rights that make us a free country. That is what this debate is about.

I happen to believe that with strong law enforcement, with a strong and effective judiciary, with a Congress working diligently, we can be vigorous and successful in protecting the American people against terrorism and we can do it in a way that does not undermine the constitutional rights which people have fought for hundreds of years to protect—the Constitution, which today remains one of the greatest documents ever written in the history of humanity.

We hear a whole lot about the word ''freedom.'' Everybody in the Senate and the House is for freedom. But what do we mean by freedom? What we mean by freedom is that we want our kids to be able to read any book they want to read without worrying that the FBI is going to come into a library or a bookstore to check on what they are reading. We want people to be able to write letters to the editor critical of the President, critical of their Congressmen or their Senator without worrying that somebody is going to knock on their door. We want people to have the freedom to assemble, to demonstrate without worrying that someone has a camera on them and is taking notes and later on there will be retribution because they exercised their freedom of assembly and their right to dissent.

That is really what the debate is about. It is not whether you are for protecting the American people against a terrorist attack. That is not what the debate is. The debate is whether we, as a great country, will be capable of doing that within the context of our laws, within the context of our Constitution, and understanding that we are a nation of laws and not of men, regardless of who the President is.

Before I go into deeper concerns, I begin by recognizing the very hard work done by members of both the Intelligence Committee and the Judiciary Committee in the Senate and in the House. We all know these are not issues resolved, and while I have strong disagreements with the final product, I know that the intentions of all the Members on both sides of the aisle were honorable.

Although there have been some improvements made to this bill that the Senate passed earlier this year, including having the inspector general review the so-called terrorist surveillance program and making it clear that FISA and criminal law are the exclusive process by which the electronic surveillance can take place rather than some broad power of the President, this final legislation is something I simply cannot support.

This legislation does not strike the right and appropriate balance between ensuring that our intelligence community has the tools it needs to protect our country against international terrorism and protecting the civil liberties of law-abiding Americans. Instead, it gives a get-out-of-jail-free card to companies that may well have violated the privacy and constitutional rights of millions of innocent Americans.

I am proud to be a cosponsor of the amendment that will be offered, as I understand it, by Senators DODD, FEINGOLD, and LEAHY to strike title II of the Intelligence bill which deals with retroactive immunity. This is a very important amendment, and I hope a majority of the Members of the Senate will support it.

It is important in this debate to put the discussion of this FISA legislation in a broader context. The context, sadly, in which we must view this legislation has everything to do with the history of what this administration currently in power has done since 9/11. Sadly, what they have done is shown the people of our country and people all over the world that they really do not understand what the Constitution of the United States is about and, in fact, they do not understand, in many instances, what international human rights agreements, such as the Geneva Convention, are all about.

So when we enter this debate, we should not look at it that this is the first time we are addressing the issue of fundamental attacks on American civil liberties. This has been going on year after year. This is more of the same from an administration which believes, to a significant degree, that they are an imperial Presidency, that in the guise of fighting terrorism, a President has the right to do anything against anybody for any reason without understanding what our Constitution is about or what our laws are about.

Let me give a few examples to remind my colleagues what kind of credibility, or lack thereof, this administration has in the whole area of civil liberties.

Among other things, this administration has pushed for, successfully, the passage of the original PATRIOT Act and the PATRIOT Act reauthorization. Under that bill, among many things, an area I was involved in when I was in the House was a provision that says, without probable cause, the FBI can go into a library or bookstore and find out the books you are reading, and if the librarian or bookstore owner were to tell anybody, that person would be in violation of the law. Do we want the kids of this country to be frightened about taking out a book on Osama bin Laden because somebody may think they are sympathetic to terrorism? I don't think so. What freedom is about is encouraging our young people and all Americans to investigate any area they want. I don't want the people of this country to be intimidated. That is not what free people are about.

Further, under this administration, we have seen an illegal and expanded use of national security letters by the FBI.

We have seen the NSA's warrantless wiretap program, which, in fact, is what we are discussing today.

We have seen the President using signing statements to ignore the intent of Congress's law in an unprecedented way. The President says: Oh, yes, I am going to sign this bill, but, by the way, I am not going to enforce section 387; I don't like that section. Mr. President, that is not the way the law works. If you don't like it, you have the power to veto. You cannot pick and choose what provisions you want. But that is, to a large degree, what this President has done.

What we have seen in recent years is a profiling of citizens engaged in constitutionally protected free speech and peaceful assembly. As I mentioned earlier, the right to dissent, the right to protest is at the heart of what this country is about. I do not want Americans to be worried that there is a video camera filming them and they will be punished somewhere down the line because they exercised their freedom of speech.

We have seen data mining of personal records.

We have seen the Abu Ghraib prison scandal, which has embarrassed us before the entire world.

We have seen a broad interpretation of congressional resolutions regarding use of military force as justification for unauthorized surveillance and other actions.

We have seen extraordinary renditions of detainees to countries that allow torture. All over the world, people are looking at the United States of America and saying: What is going on in that great Nation? We tell them to be like us, to support democracy, to support human rights, and then we engage in torture and we pick people up and we take them to countries where they are treated in horrendous ways. This is certainly one of the reasons respect for the United States has gone down all over this world, which is a tragedy unto itself but obviously makes it harder for us to bring countries together in the important fight against international terrorism.

We have seen an administration that has gotten rid of the rights of detainees to file habeas corpus petitions—simply put people away, deny them access to a lawyer, deny them the right to defend themselves.

We have seen political firings in the Office of the U.S. Attorney.

We have seen destruction of CIA tapes.

The list goes on and on.

So the issue we are debating today has to be seen in the broader context that for the last 7 years, there has been a systematic attack on our Constitution by an administration which believes that, in the guise of fighting terrorism, they can do anything they want against anybody they want without getting court approval or without respecting our Constitution and the rule of law.

I wish to touch on one point. I know Senator FEINGOLD, Senator LEAHY, and Senator DODD have touched on this bill at great length. I just want to focus on one issue, and that is the retroactive immunity granted to the telecommunications companies.

Why is it important that we support the amendment which does away with that retroactive immunity? It is very simple. The argument is that the President of the United States went to these companies and said: Look, I need your help in doing something, and the companies obliged.

Then the issue is, well, why are we punishing them, even if they broke the law? And the answer is pretty simple: It is precisely that we are a nation of laws and not of men. If we grant them retroactive immunity, what it says to future Presidents is, I am the law because I am the President, and I will tell you what you can do. And because I tell you what to do or ask you to do something, that is, by definition, legal. Go and break into my political opponent's office. Don't worry about it; I am the President. I am saying it is for national security. Those guys are bad guys, just do it. I am the President, and that is all that matters.

That is the precedent that we are setting today, and I think it is a very bad precedent. Trust me, Verizon and these other large telecommunications companies, multi, multibillion-dollar companies, have a lot of lawyers. They have a lot of good lawyers. And what we know, in fact, is that some of the telecommunications companies—at least one that comes to mind—said: No, Mr. President, sorry, that is unconstitutional. That is illegal, I ''ain't'' gonna do it. I applaud them for that. But others said: Hey, the President is asking us, we are going to do it.

The point is, the President is not the law. The law is the law. The Constitution is the law. And I don't want to set a precedent today by which any President can tell any company or any individual: You go out and do it; don't worry about it; no problem at all. That is not what this country is about.

So let me conclude, Mr. President, by saying this is a very important issue which concerns millions and millions of Americans. Bottom line, every American, every Member of the Senate understands we have to do every single thing we can to protect the American people from terrorist attacks. There is no debate about that. Some of us believe, however, that we can be successful in doing that while we uphold the rule of law, while we uphold the Constitution of this country, which has made us the envy of the world and for which we owe the Founders of our country and those who came after, fighting to protect those civil liberties, so much.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mrs. McCASKILL). The Senator from Utah.

Mr. HATCH. Madam President, Congress has been working on FISA modernization since April of 2007. That is over 425 days ago. It is simply amazing to me that it would take this long. As I have often said, the Constitution of the United States was written in about 115 days, and that included travel time on horseback for the Founding Fathers. We have spent plenty of time on this issue.

So why is it taking so long? Should this issue be controversial? I can only surmise that the delay is due to the ominous sounding terrorist surveillance program. That is the program where the President had the audacity to allow the intelligence community to listen to international communications where at least one person was suspected to be a member of al-Qaida—the same al-Qaida who killed nearly 3,000 innocent American civilians on September 11; the same al-Qaida who since that day has committed attacks in Istanbul, Algiers, Karachi, Islamabad, Casablanca, London, Madrid, Mombasa, the Gulf of Aden, Riyadh, Tunisia, Amman, and Bali; the same al-Qaida whose mission statement can be summed up in three words: ''Death to America.''

This is the group the President targeted. He wanted an early warning system to help prevent future attacks—a terrorist smoke detector, if you will. We often are reminded that we are fighting against an unconventional enemy, one that has asymmetrical advantages against us. Al-Qaida is not a nation state and adheres to no treaties or principles on the conduct of war. They wear no uniforms. They hide in peace-loving societies and deliberately conduct mass attacks against unarmed civilians. But we also have asymmetrical advantages.

As the most technologically sophisticated Nation in history, we have huge advantages that derive from this expertise. We are also—and I certainly see this as an asymmetrical advantage over the barbarism that is al-Qaida—a nation of laws. Finally, our surveillance laws are going to be modernized so we can continue to use our own technological superiority to help prevent future attacks against our public and the public of nations that have joined us in our fight to liquidate al-Qaida.

This is what the President was always intent on doing. So he initiated the terrorist surveillance program, and the administration provided appropriate briefings to the chairs and ranking members of the Senate and House Intelligence Committees and to the leaders of both parties in both Chambers. When a new Member of Congress assumed one of those positions, they were given a similar briefing.

Last year, the Senate Intelligence Committee and numerous staff conducted a full review of the terrorist surveillance program and found no wrongdoing.

So why has it taken us so long to get here, and what is the concern that has caused the delay; that the President listened to the international communications of al-Qaida after 9/11? No President would ever engage in this type of activity, except of course President Woodrow Wilson, who authorized interceptions of communications between Europe and the United States, and President Franklin Roosevelt, who in 1940 authorized interception of all communications into and out of the United States.

I guess the fourth amendment and the media's outrage were more flexible under Democratic Presidents. But let's leave these situations aside and continue to focus on the program one of my Democratic colleagues previously called ''one of the worst abuses of executive power in our history.''

With all due respect to my colleague, if listening to the international communications of al-Qaida is one of the biggest power grabs in the country's history, then our Nation has lived a charmed existence, worthy of envy throughout the world.

We should never forget the reasons for the creation of this program. It is no accident that America has not been attacked since September 11. Is it more than luck? Did al-Qaida take a hiatus from terrorist attacks? Given al-Qaida's numerous foreign attacks during this same timeframe, I think the answer is clearly no. So something must be working. Perhaps the terrorist surveillance program has played a role.

But what about warrantless wiretapping? That phrase certainly means something illegal, right? Not really. As often as that phrase is repeated, what does it really mean? Does warrantless wiretapping automatically mean unconstitutional? That is certainly what we are led to believe by the handwringing blatteroons of the day. But this is simply not true.

The fourth amendment does not proscribe warrantless searches or surveillance. It proscribes unreasonable searches or surveillance. For example, let's look at a few of the numerous warrantless searches that are performed every day: Waiting for warrantless searches at the U.S. Border Inspection Station. Look at that mess.

Look at this: Waiting for warrantless searches at the U.S. Supreme Court. It is done every day that the court is in session, and even when it isn't sometimes. Waiting for warrantless searches at the National Archives. In other words, waiting to be searched before viewing the fourth amendment. This happens every day. I see that there are members of the public in the gallery above. Every last one of them went through a warrantless search just to get into this building.

So the question becomes whether a warrantless search or surveillance of international communications involving al-Qaida is reasonable or, to put it another way, whether signals intelligence against a declared enemy of the United States is reasonable. In my opinion, and I think in the opinion of the vast majority of our body, it certainly is.

Let's also look at what the Foreign Intelligence Surveillance Court of Review, the highest court that has considered this issue, has said:

The Truong court, as did all the other courts to have decided the issue, held that the President did have inherent authority to conduct warrantless searches to obtain foreign intelligence information. We take for granted that the President does have that authority and, assuming that is so, FISA could not encroach on the President's constitutional power.

That is out of in re: Sealed, case 310 F3d, 717, the FISA Court of Review, 2002.

While the phrase ''warrantless wiretapping'' has been cited incessantly, there is another phrase mentioned nearly as often, and that is ''domestic spying.'' In order to better evaluate this phrase, let's look at what the President said in a December 17, 2005, radio address that described the TSP.

In the weeks following the terrorist attacks on our Nation, I authorized the National Security Agency, consistent with U.S. law and the Constitution, to intercept the international communications of people with known links to al-Qaida and related terrorist organizations. Before we intercept these communications, the government must have information that establishes a clear link to these terrorist networks.

I don't see anything in that statement about domestic spying. I thought the definition of the word ''domestic'' was pretty clear. If the program intercepted communications in which at least one party was overseas, not to mention a member of al-Qaida, then it seems fairly obvious that those calls were—and I will emphasize this—not domestic.

Is this a domestic call? A foreign terrorist calling a terrorist within the United States? I hardly think so. Is this really such a hard concept? The last time I flew overseas, I didn't fly on a domestic flight. I flew on an international flight. My last phone bill showed there is a big difference between domestic calls and international calls.

Domestic spying may sound catchy and mysterious, but it is a completely inaccurate, even misleading, way to describe the TSP terrorist surveillance program—or FISA modernization. Why don't we describe them as international spying, which is what they really are? Isn't that a more accurate description? But I imagine international spying wouldn't raise the same level of fear and distrust in our Government that some on the left try to foster.

So while I regret the political machination that has turned this seemingly straightforward issue on its head, I am hopeful the time for debate is finally over. Yet some have suggested Congress should not pass a bill modernizing FISA. Even after such a prolonged period and extensive debate on the issue, they would prefer that we do nothing.

We are now hearing about efforts to strike or amend the immunity provisions in the compromise bill so that Members may express their views.

Is this really necessary? Did the multiple times the Senate has considered and rejected similar efforts mean nothing?

Look at this: The Senate has affirmed telecom civil liability protection in six separate votes. On October 18, 2007, the Senate Intelligence Committee rejects the amendment to strike the immunity provisions 12 to 3. That was bipartisan, by the way. On November 15, 2007, the Senate Judiciary Committee rejects amendment to strike immunity provisions 12 to 7. Again, bipartisan. On 12/13/07, the Senate Judiciary Committee rejects standalone Government substitution bill 13 to 5. On January 24, 2008, the full Senate tables the Judiciary's substitute, which does not include immunity, 60 to 36. On February 12, 2008, the full Senate rejects the amendment to substitute the Government for telecoms 68 to 30. On February 12, 2008, the full Senate rejects amendment to strike immunity provisions 67 to 31.

The last time I saw that and looked at those numbers, those were all bipartisan votes. The civil liability provision in the Senate bill, which has been tweaked in this compromise, is supported by a bipartisan majority of the House and Senate, after all this hullabaloo.

In addition, let us not forget the opinions of the State attorneys general who previously wrote to Congress to express their support for civil liability protection.

Look at all the State attorneys general who endorse immunity. State attorney general of Wisconsin, the attorney general of Rhode Island, the attorney general of Oklahoma, the attorney general of Colorado, the attorney general of Florida, the attorney general of Alabama, the attorney general of Arkansas, the attorney general of Georgia, the attorney general of Kansas, the attorney general of my beloved home State of Utah, the attorney general of Texas, the attorney general of New Hampshire, the attorney general of Virginia, the attorney general of North Dakota, the attorney general of North Carolina, the attorney general of South Carolina, the attorney general of Pennsylvania, attorney general of South Dakota, attorney general of Nebraska, the attorney general of West Virginia, the attorney general of Washington.

These are all legal officers, by the way, attorneys general of those very States.

Another complaint that has been mentioned is that this bill does not have adequate oversight. We have heard allegations that:

the government can still sweep up and keep the international communications of innocent Americans in the U.S. with no connection to suspected terrorists, with very few safeguards to protect against abuse of this power.

We have heard other allegations that this bill does not provide adequate protections for innocent Americans. Make no mistake. The role of the Federal judiciary into the realm of foreign intelligence gathering is greatly expanded by this legislation.

So when we hear the incessant claims that this legislation lacks meaningful review, I want people to be absolutely crystal clear on the staggering amount of oversight in this bill.

The Foreign Intelligence Surveillance Court was created by the 1978 FISA law for solely one purpose: This is Title 50 of the U.S. Code 1803(a): ''a court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance.''

Let's think about this. It is America in 1978. The Church Committee has published information about known abuses by the Government involving surveillance against American citizens. The public wanted action. So what did the 95th Congress do?

Did it create a Court with the authority to review and approve the intelligence community's foreign targeting techniques? No.

Did it create a Court with the ability to review and approve the techniques used to minimize incidental interceptions involving Americans? No.

Did it mandate the intelligence community to get a warrant when targeting United States persons overseas? No.

But the 110th Congress will mandate each and every one of those things by passing this bill.

For the first time, the FISC will review and approve targeting procedures to ensure that authorized acquisitions are limited to persons outside of the United States.

For the first time, the FISC will review and approve minimization techniques.

For the first time, the FISC will ensure that the foreign targeting procedures are consistent with the fourth amendment.

So given the staggering amount of oversight, there must be some sweeping new surveillance authority that would necessitate these changes, right? Wrong.

The ''broad new surveillance authority'' that we hear so much about is directed at one thing: the Government can target foreign citizens overseas after the FISC reviews and approves the targeting and minimization procedures. In layman's terms: the Government can listen to foreign citizens overseas to collect foreign intelligence information. That doesn't sound like broad sweeping authority to me. In fact, it is less authority than the Government had before.

Let me enumerate some of the many restrictions on this authority:

No. 1, the Government can't intentionally target any person known to be in the U.S.

No. 2, the Government can't intentionally target a person outside the U.S. if the purpose is to target a known person in the U.S.—reverse targeting.

No. 3, the Government can't acquire domestic communications in the U.S.

No. 4, the targeting has to be consistent with the fourth amendment to the Constitution.

And there is more: the Attorney General and the Director of National Intelligence have to develop and adopt guidelines to ensure compliance with these limitations. These guidelines must be submitted to Congressional Intelligence and Judiciary Committees as well as the FISC.

The Attorney General and the Director of National Intelligence shall assess compliance with the targeting and minimization procedures at least every 6 months. This assessment must be submitted to the FISC, and the Intelligence and Judiciary committees of both chambers of Congress.

The Inspectors General of the Department of Justice and each element of the intelligence community may review compliance with the targeting and minimization procedures.

Finally, this bill authorizes a horde of inspectors general to conduct a full review of certain communications surveillance activities—a review that the Senate Intelligence Committee has already conducted on a bipartisan basis and found nothing wrong. Vice Chairman BOND and the other negotiators agreed to narrow the scope of this review so that there would be minimal or no operational impact on our intelligence analysts. It should come as no surprise that we want intelligence analysts to focus on analysis, not spend limited time and resources digging up documents for redundant IG reviews.

So for those who criticize this bill as lacking oversight, I wonder if any level would be enough? I have no doubt that some would only be satisfied by specific individual warrants for each and every foreign terrorist overseas. This would complete the twisted logic that somehow giving complete constitutional protections to foreign terrorists leads to more protections for Americans. Do we really need to remind people that foreign citizens outside of our country, particularly members of terrorist organizations, enjoy no—none—no protections from our Constitution?

Make no mistake about the power the FISA Court will possess in foreign intelligence gathering following passage of this bill. If the Court finds any deficiency in the certification submitted by the Attorney General or Director of National Intelligence, then the FISC can direct the Government to cease or not initiate the foreign targeting. In other words—our collection would go dark. Fortunately, the Government will be able to rightly begin acquisitions pending an appeal to the Foreign Intelligence Surveillance Court of Review.

This is surely an intimidating environment for our intelligence analysts. Essentially, any accident or mistake will be highlighted to Congress. Unforgiving is not the word. I wonder how many private citizens would enjoy having policies at their jobs where any inadvertent error would result in notification to and review by Congress?

I will suggest that the amount of oversight in this bill should be revisited in the future; not to increase it, but rather to mandate more realistic and appropriate levels of review.

The multiple oversight initiatives in this legislation are not fulfilled by magic. It takes a tremendous amount of time and resources by the very analysts whose primary job is to track terrorists. As great as our analysts are, they can't be two places at once. There are only so many of them, and they don't have unlimited resources. It is worth noting what Director of National Intelligence McConnell said to Congress last September:

> Prior to the Protect America Act, we were devoting substantial expert resources towards preparing applications that needed FISA Court approval. This was an intolerable situation, as substantive experts, particularly IC subject matter and language experts, were diverted from the job of analyzing collection results and finding new leads.

The leaders of our intelligence community have to make wise choices when allocating the time and expertise of analysts, and their hands should not be unnecessarily tied by Congress. Analytic expertise on target is a finite resource; a finite resource which the public must understand is rendered against an enemy whose resources and capabilities remain obscured to us, while its intent remains deadly.

But I guess I shouldn't be surprised by the inclusion of these onerous oversight provisions, which no previous Congress felt the need to add. How many times have we heard claims that the Protect America Act would permit the Government to spy on innocent American families overseas on their vacations? Or innocent American soldiers overseas serving our country? Or innocent students who are simply studying abroad?

Painting this type of picture only feeds the delusions of those who wear tin foil hats around their house and think that 9/11 was an inside job.

Do we think so little of the fine men and women of our intelligence community that we assume they would rather target college kids in Europe than foreign terrorists bent on nihilistic violence?

The absurdity of these accusations cannot be understated and we should not tolerate them. We should never forget that our intelligence analysts are not political appointees. They serve regardless of which President is in office, or which political party is represented. They take an oath to defend the Constitution. And rather than respect and trust their judgment and integrity, we layer oversight mechanisms that treat them like 16-year-olds who just got their first job and have to be birdwatched for fear they are stealing money from the cash register.

Now I agree there are some instances in which we may want to target individuals studying abroad. I am not necessarily talking about institutions of higher learning like the Sorbonne, but rather terrorist training camps spread through some hostile regions of foreign countries. These are the type of schools that our intelligence community is interested in. When it comes to these students, I want to know what they are up to.

Here is a good illustration: Supposed ''Graduation'' of Taliban Members on June 9, 2007. I want to know what they are about.

After addressing some of the critiques of this bill by others, let me offer one of my own. This bill calls for prior court review and approval of certifications presented to the FISC before foreign intelligence collection can begin. As I have consistently stated throughout these FISA modernization discussions, I believe this principle is unjustified and unwise.

The idea that the executive branch of the Government needs the explicit approval of the judiciary branch before collecting foreign intelligence information from foreign citizens in foreign countries is simply wrongheaded and is contrary to our Constitutional principles. I don't care if the President represents the Democratic party, Republican party, Green party, Independent party, or Whig party; he shouldn't need permission to track foreign terrorists.

With that said, I am encouraged that the bill includes a provision which would allow collection before court review of procedures if ''exigent circumstances'' exist. Even with this provision, I am troubled that one of my Democratic colleagues in the House made the following statement last week about this provision:

> This is intended to be used rarely, if at all, and was included upon assurances from the administration that agrees that it shall not be used routinely.

This begs the question, is tracking terrorists not an ''exigent circumstance''? I urge the executive branch to utilize this provision appropriately and as often as necessary following the informed judgment of those with the appropriate acumen to make such decisions. The phrase ''intelligence * * * may be lost'' means what it says: if the executive branch determines that we may lose intelligence while waiting for the Court to issue an order, then the Intelligence Community should do what our Nation expects: it should act and act quickly. The executive branch should not hesitate to utilize this authority because of fear of reprisal from those who may seek to advance political agendas—which we have seen plenty of, and some on this floor today.

Finally, I want to highlight the extensive efforts of the negotiators of this bill in both chambers. I especially want to express my appreciation and gratitude to my friend and colleague KIT BOND, the dedicated vice chairman of the Intelligence Committee, who adeptly navigated and managed the

tense and tedious negotiations to bring about the opportunity for passage of this historic legislation, the most extensive rewrite of foreign intelligence surveillance laws in 30 years.

As you can tell from the tone of my remarks, I am less than pleased at some of the compromises made in these negotiations. I don't like the expansion of the judiciary branch into what I believe are activities rightly under the executive's prerogative. But I came to the Senate to achieve improvements for the American people, not to be an ideologue. My entire career as a legislator has been in recognition that compromise gets more done for the public than obstruction. The people of Utah didn't send me to the Senate to obstruct business, but to get business done. Nowhere is this more important than on matters where the Congress is enjoined by our citizens to improve the national security. I am a pragmatist, and I am a realist. Part of being a realist, these days, is to recognize that there is a disturbing backlash against the national security policies of this administration. Fueled by dissatisfaction over mistakes in Iraq, over frustration that the fight there and in Afghanistan continues into its seventh year, and that Al Qaeda remains a credible and deadly threat, many people in the majority party have gone beyond criticism to denunciation, to condemnation and obstruction. I am hoping that the general election before us will provide the opportunity for a truly grand debate on what we consider are threats, and how we believe we must continue to address them. But so far the debate has not been joined, and the rhetoric is becoming more poisonous. I have come to this floor and expressed my own criticisms of this administration, but I have never had reason to condemn them as operating in bad faith when it came to defending this Nation.

I know this President. The President is a wonderfully good man. He has done everything in his power to try to protect us. He is an honest man. He has had untoward criticism from the media day in and day out. He has been deliberately maligned by people who should know better.

Yes, this administration has made mistakes, but they have not been made intentionally. It is pathetic the way the media and many have treated this President. I think we have got to go back to where we respect our President and we show some degree of tolerance for the tough job that being President is.

It is regrettable for me that the rhetoric around the terrorism surveillance program has devolved too often into fire but no light. So while I am concerned about some of the compromises made in this bill, I am grateful for all of the work done to bring it to a vote this week. We have to have this bill to protect the American people.

I urge my colleagues to support this monumental and historic legislation. Our country continues to be both the envy of the world and the target of those who seek to advance their warped, violent ideology. We know the threats are out there. We do not have to live our lives in fear, but we should acknowledge that the world changed on September 11 and we must remain vigilant.

Let's ensure that all of the dedicated and noble professionals who play a part in ensuring our liberty and safety are not hampered by partisan problems that we have the ability and responsibility to correct.

The legislation before us makes an important and admirable attempt to do just that. I hope my colleagues will support this legislation and support final passage. It is overdue. It has been delayed too long. We have been playing around with this far too long. There have been so many unjust criticisms, I am sick of them, to be honest with you. It is almost as though politics has to rear its ugly head every time we turn around here. A lot of it is driven by the fact that people resent the President of the United States. They do so unjustly, without proper sense, in ways that are detrimental to our country and future presidencies that will come into office. This President has had very difficult problems to handle.

I believe I am the longest serving person on the Senate Select Committee on Intelligence. I have been around a long time. I have seen a lot of things. I have tried to help prior Presidents as I have played a role on the Intelligence Committee. I have done so, I believe, without resorting to partisan attacks. We have had too many partisan attacks around here, and I think too many vicious attacks against the President and, I might add, against these unnamed, highly classified unknown, except by those in the intelligence community, telecom companies that patriotically helped our country to protect us, that have gone through untold expense, the deprivation and harm caused by the zealousness of those who believe that only they can protect the civil liberties of this country, when, in fact, that is what the telecom companies were cooperating to do.

I thank all of the Intelligence Committee staffers who have played such a big role in helping this bill to come to the floor. We have a very dedicated staff on the Intelligence Committee. I have to say that in this current Intelligence Committee I have seen more partisanship than I have seen in the past. But, by and large, when we passed the original bill out of the committee, it was passed 13 to 2, and we worked together in a very good way on that committee.

So I thank those staffers who worked so hard to try and help us all resolve this set of difficulties. I hope everybody in the Senate will vote for this bill and send it out with resounding victory.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, soon the Senate will take up the Foreign Intelligence Surveillance Act. It, of course, is known as FISA. FISA may not be a household word to most Americans, but a properly written FISA reauthorization is exceptionally important to the well-being of our country and it needs to meet a simple test: It must allow our country to fight terrorism ferociously and still protect our individual liberty.

I do not know how many Senators have traveled to the other end of Pennsylvania Avenue to personally read the legal opinions from the Department of Justice on the warrantless wiretapping program that is at the center of this debate. Someday these opinions are going to become public. Someday the American people will see how flimsy the legal reasoning is behind warrantless wiretapping. Someday the American people will see the damage that is done to our Nation when the executive branch tries to rewrite important national security law in secret.

The warrantless wiretapping program is not the first of this administration's counterterrorism programs that is built on legal quicksand. We have seen the coercive interrogation program, and the detention program at Guantanamo. Again and again on these vital counterterrorism programs, the administration has overreached, it has fallen short, and then it has come to the Congress and asked that the Congress clean up these legal messes. I am especially troubled by the provisions in this reauthorization of the FISA bill that grant blanket retroactive immunity to any telecommunications company that participated in the warrantless wiretapping program. I want to spend a few minutes to unpack this issue and discuss why I think it is such a significant mistake to reauthorize the program in this fashion and to have what amounts to a blanket amnesty provision for those who may have been involved in illegal activity.

Many have argued that companies that were asked to participate in the warrantless wiretapping program should be treated leniently since they acted during a state of national panic and confusion. I have given this argument a lot of thought and, frankly, I think there is a valid rationale behind that thinking if you are talking about a short period of time. But that is not what is being discussed here. The warrantless wiretapping program did not last for a few weeks or a few months as America worried about the prospect of another attack. It went on for nearly 6 years. At some point during that nearly 6-year period, any company participating in the program had an obligation to stop and to consider whether what they were doing was legal.

Others have suggested that if you do not give amnesty to the companies now, it is going to be impossible to get

cooperation from other companies in the future in the fight against terrorism. I do not buy that argument. Our country is full of patriotic citizens and businesses that are eager to do their part and to serve their Nation. I will say, I think it is insulting to suggest that American businessmen and women will be less patriotic if the Congress does not grant amnesty to the phone companies. People of this country love our Nation, and I believe they step up, they come forward whenever they can.

I hope, however, that they are not going to say: Well, okay, when the Government breaks the law we will automatically step forward in those instances. When American businesses are asked to participate in a program that looks as if it could be illegal, we all say, that is the time to hold on. I think it is important, particularly for our major businesses, to follow the law and not just the words of the President. I am disappointed that this legislation includes this amnesty provision. I hope as colleagues continue to examine the bill, they understand what is at issue.

If the legislation passes, the Attorney General will be able to stop any of the lawsuits against the companies dead in their tracks. All the Attorney General will have to do is tell the judges considering these cases that any corporation that participated in the program was told by the Government that what they were doing was legal. They will not have to actually prove it was legal, they will not have to provide any evidence, they will not have to cite any statutes, they will not have to make any legal arguments whatsoever.

In my view, this amounts to self-certification. Self-certification runs counter to the whole idea of the Foreign Intelligence Surveillance Act in the first place. The Foreign Intelligence Surveillance Act is based on the notion that the way to keep classified intelligence activities from intruding on Americans' privacy is to make sure there is a significant measure of independent judicial oversight. The judges in this situation will be allowed to examine as many documents as they like. But, in this instance, they will not actually be allowed to exercise independent judgment at all. As long as they see a piece of paper, a piece of paper that gets held up from a few years ago, a Presidential permission slip, if you will, that claims the program is legal, they will be required to grant immunity to the phone companies. Even the distinguished leader in the House, the minority whip, has acknowledged that this would be a mere ''formality.''

The concept of independent oversight that is so central to the Foreign Intelligence Surveillance Act and that has worked so well in practice simply, in my view, should not be transformed into an approach that effectively permits the administration to self-certify with respect to these particular cases.

I want to be clear that I cannot begin to divine how various matters in litigation will come out. In addition to the constitutional issues that are at stake, there is a number of contentious matters regarding standing, injury, a host of very difficult legal problems involved. I think the judges in these cases will need to consider all of the issues if the cases go forward. That is what makes the judicial process in the original statute so important. It is independent. They look at all of the factors that are relevant. But I will say that I did not think the Congress or I should substitute our judgment for the judgment of the courts, and that is, in effect, what happens if the legislation goes forward as written and blanket immunity is granted to every company that participated in the program.

It saddens me to have to oppose the legislation as written. I do so knowing that the bill contains a number of very important provisions and, with respect to individual liberty and the rights of our people, contains some significant steps forward. I am especially grateful to Senators ROCKEFELLER and BOND for working very closely with me to ensure that Americans who travel overseas don't lose their rights when they leave America's shores. That is the status today, regrettably. In this area, Senators ROCKEFELLER, BOND, myself, WHITEHOUSE, FEINGOLD, a number of us who serve on the Senate Select Committee on Intelligence worked in a constructive, good-faith way with the Bush administration. In this legislation, we have put into law that in the digital age, your rights are going to travel with you. You don't lose your rights. If you are a serviceman from the State of Missouri or a businessperson from another part of the country, you won't lose your rights when you leave American soil. That is as it should be. It is a significant expansion of the individual liberties of our citizens. They should not give up their rights when they travel. They ought to have rights that do travel in a world with modern communications and modern transportation. That provision is part of this reauthorization.

However, I feel so strongly about the ill-advised nature of the provisions that provide for blanket amnesty that I must oppose this bill as written. I think when history looks back at what happened, the warrantless wiretapping program, they are going to say that this program, along with several other flawed counterterrorism programs that have come from this administration, was a mistake. We should not compound those mistakes by reauthorizing this legislation that contains a blanket grant of immunity at a time when Americans understand that it is possible to fight terrorism relentlessly, fight terrorism ferociously without trashing our rights and liberties simultaneously.

We can do better. The Senate will have an opportunity to do better. A number of colleagues are going to be advocating proposals to strip the legislation of the amnesty provision. I hope those provisions will be successful.

I would like to pass this bill when we have an opportunity to strike a better balance between fighting terrorism aggressively and protecting the liberties of our citizens.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, before our colleague leaves the Chamber, I commend him for his statement. I had a chance to listen to part of it before coming to the floor of the Senate. This is a long-held view of my colleague when it comes to civil liberties and the rule of law. I commend him for remaining consistent in that insistence. He is absolutely correct that this is not a choice between security or liberty. In fact, I argue, as he has, that when we begin to retreat on the rule of law, we become less secure as a people. We have learned that lesson painfully throughout history. This is the time for us to be vigilant, both in terms of our security and also when it comes to our rights. This is an issue that ought not divide people based on our determination to deal with terrorism or those who wish to do great harm to our country but to recognize that historically, when we have been motivated by fear and have failed to stand up for basic rights, we have made horrendous mistakes. When we have stood up for our rights as well as insisting on our security, we have done our job as a generation, as previous ones have as well.

This is one of those moments history will look back upon. Why did we say that 17 phone companies that relied on a letter and not much more than that decided for over 5 years to invade the privacy of millions of Americans and would still be doing it today but for a whistleblower who revealed the program? Why did they not seek the FISA Court, as 18,748 other cases that been submitted and only 5 examples when they were turned down seeking a warrant since 1978? Why in this case did the Bush administration decide to avoid that normal process and go with a simple letter, without any legal justification I can determine, and get that kind of reaction? Why should we not know that? Why should not the American people know that? What happened here?

That is what the Senator is insisting upon. We will not know the answers to those questions if we, as a legislative body, by a simple vote here, declare that the courts have no business examining the legality of this action. We will avoid that responsibility by casting a vote to keep this immunity process in place. I will be joining him. In fact, I will be offering the amendment to strike the immunity provisions, to do our job when it comes to dealing with FISA, to modernizing it, but not to grant immunity to 17 phone companies.

Quest, to their great credit, when they were given that letter, said: We need more legal justification. They did

not engage in this program. Not all phone companies did. But the ones that did bear the responsibility to determine whether what they did was legal. We will never know the answer to that if the Senator from Oregon and I do not prevail on our amendment.

I commend him immensely for his statement.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Chair.

Madam President, the Senate today—hopefully, tomorrow—returns to debating the matter of modernizing FISA and, more specifically, the Foreign Intelligence Surveillance Amendments Act of 2008. After many months of careful and often very difficult negotiations, we bring to the Senate an agreement that many believed could actually never be achieved, that is bipartisan legislation aimed at protecting the Nation's security and civil liberties, supported by the House, by the Senate, as well as both the Attorney General and the Director of National Intelligence.

The bill before us reflects the fact that FISA, as it was created in 1978, has increasingly become outdated and hindered our Nation's ability to collect intelligence on foreign targets in a timely manner. It is the direct result of changing technologies, advances in technology, in telecommunications, and the need to evolve and meet today's threat facing our Nation; namely, global terrorism and the proliferation of weapons of mass destruction.

The fact is, as telecommunications technology has changed, intelligence agencies have been presented with collection opportunities inside the United States against targets overseas. Yet, because of the way FISA was written in 1978, they could not take full advantage of these new opportunities.

Finding a solution to this problem has not been easy. It was made more complicated by the President's decision, in the aftermath of the September 11, 2001, disaster, to go completely outside of the FISA rather than work with Congress to fix the situation. That decision was complicated even further by the fact that the President put telecommunication companies in a precarious position by not giving them the legal security of the FISA Court, even when they were told their efforts were legal and necessary to prevent another terrorist attack.

Early last year, at the start of our tenure as the new chairman and vice chairman of the Senate Intelligence Committee, Senator BOND and I agreed that our top priority was going to be to modernize FISA. It had to be our top priority for the year. Even then, I don't think we understood how complex and difficult this endeavor would be or even just how important it would be to our intelligence efforts and to the war against terrorism. It is a monumental bill, and it redoes, for the first time in 30 years, proper handling of collection, which is why I am so pleased to stand before you today and say that we have succeeded.

The laborious process of consultation with Members of both bodies and both parties and legal and intelligence officials in the executive branch has worked. We have produced a strong, smart policy that will meet the needs of our intelligence community and protect America's cherished civil liberties.

For procedural reasons, the bill now before the Senate is a new bill which passed the House on Friday by a vote of 293 to 129. You can run that out to a 70-percent vote. While formally a new bill, it is the product of compromise between the FISA bills developed, debated, and amended in both Houses in the course of the past year.

In the absence of a formal conference, there is no conference report that describes this final bill. To help fill that void, I have prepared, as manager of the bill, a section-by-section analysis which builds on the analysis in our earlier Senate report and includes the changes that have followed. I hope it will be of assistance to the Senate in consideration of this final legislation as well as to the public and all those who will have responsibility to implement the bill.

Accordingly, I ask unanimous consent to have printed in the RECORD the summary of the bill's legislative history and a description of its four titles.

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

H.R. 6304, FISA AMENDMENTS ACT OF 2008

SECTION-BY-SECTION ANALYSIS AND EXPLANATION

Senator John D. Rockefeller IV, Chairman of the Select Committee on Intelligence

The consideration of legislation to amend the Foreign Intelligence Surveillance Act of 1978 (''FISA'') in the 110th Congress began with submission by the Director of National Intelligence (''DNI'') on April 12, 2007 of a proposed Foreign Intelligence Surveillance Modernization Act of 2007, as Title IV of the Administration's proposed Intelligence Authorization Act for Fiscal Year 2008. The DNI's proposal was the subject of an open hearing on May 1, 2007 and subsequent closed hearings by the Senate Select Committee on Intelligence, but was not formally introduced. It is available on the Committee's website: http://intelligence.senate.gov/070501/bill.pdf. In the Senate, the original legislative vehicle for the consideration of FISA amendments in the 110th Congress was S. 2248. It was reported by the Select Committee on Intelligence on October 26, 2007 (S. Rep. No. 110–209 (2007)), and then sequentially reported by the Committee on the Judiciary on November 16, 2007 (S. Rep. No. 110–258 (2008)). In the House, the original legislative vehicle was H.R. 3773. It was reported by the Committee on the Judiciary and the Permanent Select Committee on Intelligence on October 12, 2007 (H. Rep. No. 110–373 (Parts 1 and 2)(2007)). H.R. 3773 passed the House on November 15, 2007. S. 2248 passed the Senate on February 12, 2008, and was sent to the House as an amendment to H.R. 3773. On March 14, 2008, the House returned H.R. 3773 to the Senate with an amendment.

No formal conference was convened to resolve the differences between the two Houses on H.R. 3773. Instead, following an agreement reached without a formal conference, the House passed a new bill, H.R. 6304, which contains a complete compromise of the differences on H.R. 3773.

H.R. 6304 is a direct descendant of H.R. 3773, as well as of the original Senate bill, S. 2248, and the legislative history of those measures constitutes the legislative history of H.R. 6304. The section-by-section analysis and explanation set forth below is based on the analysis and explanation in the report of the Select Committee on Intelligence on S. 2248, at S. Rep. No. 110–209, pp. 12–25, as expanded and edited to reflect the floor amendments to S. 2248 and the negotiations that produced H.R. 6304.

OVERALL ORGANIZATION OF ACT

The FISA Amendments Act of 2008 (''FISA Amendments Act'') contains four titles.

Title I includes, in section 101, a new Title VII of FISA entitled ''Additional Procedures Regarding Certain Persons Outside the United States.'' This new title of FISA (which will sunset in four and a half years) is a successor to the Protect America Act of 2007, Pub. L. 110–55 (August 5, 2007) (''Protect America Act''), with amendments. Sections 102 through 110 of the Act contain a number of amendments to FISA apart from the collection issues addressed in the new Title VII of FISA. These include a provision reaffirming and strengthening the requirement that FISA is the exclusive means for electronic surveillance, important streamlining provisions, and a change in the definitions section of FISA (in section 110 of the bill) to facilitate foreign intelligence collection against proliferators of weapons of mass destruction.

Title II establishes a new Title VIII of FISA which is entitled ''Protection of Persons Assisting the Government.'' This new title establishes a long-term procedure, in new FISA section 802, for the Government to implement statutory defenses and obtain the dismissal of civil cases against persons, principally electronic communication service providers, who assist elements of the intelligence community in accordance with defined legal documents, namely, orders of the FISA Court or certifications or directives provided for and defined by statute. Section 802 also incorporates a procedure with precise boundaries for liability relief for electronic communication service providers who are defendants in civil cases involving an intelligence activity authorized by the President between September 11, 2001, and January 17, 2007. In addition, Title II provides for the protection, by way of preemption, of the federal government's ability to conduct intelligence activities without interference by state investigations.

Title III directs the Inspectors General of the Department of Justice, the Department of Defense, the Office of National Intelligence, the National Security Agency, and any other element of the intelligence community that participated in the President's Surveillance Program authorized by the President between September 11, 2001, and January 17, 2007, to conduct a comprehensive review of the program. The Inspectors General are required to submit a report to the appropriate committees of Congress, within one year, that addresses, among other things, all of the facts necessary to describe the establishment, implementation, product, and use of the product of the President's Surveillance Program, including the participation of individuals and entities in the private sector related to the program.

Title IV contains important procedures for the transition from the Protect America Act to the new Title VII of FISA. Section 404(a)(7) directs the Attorney General and the DNI, if they seek to replace an authorization under the Protect America Act, to

submit the certification and procedures required in accordance with the new section 702 to the FISA Court at least 30 days before the expiration of such authorizations, to the extent practicable. Title IV explicitly provides for the continued effect of orders, authorizations, and directives issued under the Protect America Act, and of the provisions pertaining to protection from liability, FISA court jurisdiction, the use of information acquired and Executive Branch reporting requirements, past the statutory sunset of that act. Title IV also contains provisions on the continuation of authorizations, directives, and orders under Title VII that are in effect at the time of the December 31, 2012 sunset, until their expiration within the year following the sunset.

TITLE I. FOREIGN INTELLIGENCE SURVEILLANCE

Section 101. Targeting the Communications of Persons Outside the United States

Section 101(a) of the FISA Amendments Act establishes a new Title VII of FISA. Entitled ''Additional Procedures Regarding Certain Persons Outside the United States,'' the new title includes, with important modifications, an authority similar to that granted by the Protect America Act as temporary sections 105A, 105B, and 105C of FISA. Those Protect America Act provisions had been placed within FISA's Title I on electronic surveillance. Moving the amended authority to a title of its own is appropriate because the authority involves not only the acquisition of communications as they are being carried but also while they are stored by electronic communication service providers.

Section 701. Definitions

Section 701 incorporates into Title VII the definition of nine terms that are defined in Title I of FISA and used in Title VII: ''agent of a foreign power,'' ''Attorney General,'' ''contents,'' ''electronic surveillance,'' ''foreign intelligence information,'' ''foreign power,'' ''person,'' ''United States,'' and ''United States person.'' It defines the congressional intelligence committees for the purposes of Title VII. Section 701 defines the two courts established in Title I that are assigned responsibilities under Title VII: the Foreign Intelligence Surveillance Court (''FISA Court'') and the Foreign Intelligence Surveillance Court of Review. Section 701 also defines ''intelligence community'' as found in the National Security Act of 1947. Finally, section 701 defines a term, not previously defined in FISA, which has an important role in setting the parameters of Title VII: ''electronic communication service provider.'' This definition is connected to the objective that the acquisition of foreign intelligence pursuant to this title is meant to encompass the acquisition of stored electronic communications and related data.

Section 702. Procedures for Targeting Certain Persons Outside the United States Other than United States Persons

Section 702(a) sets forth the basic authorization in Title VII, replacing section 105B of FISA, as added by the Protect America Act. Unlike the Protect America Act, the collection authority in section 702(a) is to be conducted pursuant to the issuance of an order of the FISA Court, or pursuant to a determination of the Attorney General and the DNI, acting jointly, that exigent circumstances exist, as defined in section 702(c)(2), subject to subsequent and expeditious action by the FISA Court. Authorizations must contain an effective date, and may be valid for a period of up to one year from that date.

Subsequent provisions of the Act implement the prior order and effective date provisions of section 702(a): in addition to section 702(c)(2) which defines exigent circumstances, section 702(i)(1)(B) provides that the court shall complete its review of certifications and procedures within 30 days (unless extended under section 702(j)(2)); section 702(i)(5)(A) provides for the submission of certifications and procedures to the FISA Court at least 30 days before the expiration of authorizations that are being replaced, to the extent practicable; and section 702(i)(5)(B) provides for the continued effectiveness of expiring certifications and procedures until the court issues an order concerning their replacements.

Section 105B and section 702(a) differ in other important respects. Section 105B authorized the acquisition of foreign intelligence information ''concerning'' persons reasonably believed to be outside the United States. To make clear that all collection under Title VII must be targeted at persons who are reasonably believed to be outside the United States, section 702(a) eliminates the word ''concerning'' and instead authorizes ''the targeting of persons reasonably believed to be located outside the United States to collect foreign intelligence information.''

Section 702(b) establishes five related limitations on the authorization in section 702(a). Overall, the limitations ensure that the new authority is not used for surveillance directed at persons within the United States or at United States persons. The first is a specific prohibition on using the new authority to target intentionally any person within the United States. The second provides that the authority may not be used to conduct ''reverse targeting,'' the intentional targeting of a person reasonably believed to be outside the United States if the purpose of the acquisition is to target a person reasonably believed to be in the United States. If the purpose of the acquisition is to target a person reasonably believed to be in the United States, the acquisition must be conducted in accordance with other titles of FISA. The third bars the intentional targeting of a United States person reasonably believed to be outside the United States. In order to target such United States person, acquisition must be conducted under three subsequent sections of Title VII, which require individual FISA court orders for United States persons: sections 703, 704, and 705. The fourth limitation goes beyond targeting (the object of the first three limitations) and prohibits the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States. The fifth is an overarching mandate that an acquisition authorized in section 702(a) shall be conducted in a manner consistent with the Fourth Amendment to the U.S. Constitution, which provides for ''the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.''

Section 702(c) governs the conduct of acquisitions. Pursuant to section 702(c)(1), acquisitions authorized under section 702(a) may be conducted only in accordance with targeting and minimization procedures approved at least annually by the FISA Court and a certification of the Attorney General and the DNI, upon its submission in accordance with section 702(g). Section 702(c)(2) describes the ''exigent circumstances'' in which the Attorney General and Director of National Intelligence may authorize targeting for a limited time without a prior court order for purposes of subsection (a). Section 702(c)(2) provides that the Attorney General and the DNI may make a determination that exigent circumstances exist because, without immediate implementation of an authorization under section 702(a), intelligence important to the national security of the United States may be lost or not timely acquired and time does not permit the issuance of an order pursuant to section 702(i)(3) prior to the implementation of such authorization. Section 702(c)(3) provides that the Attorney General and the DNI may make such a determination before the submission of a certification or by amending a certification at any time during which judicial review of such certification is pending before the FISA Court.

Section 702(c)(4) addresses the concern, reflected in section 105A of FISA as added by the Protect America Act, that the definition of electronic surveillance in Title I might prevent use of the new procedures. To address this concern, section 105A redefined the term ''electronic surveillance'' to exclude ''surveillance directed at a person reasonably believed to be located outside of the United States.'' This redefinition, however, broadly exempted activities from the limitations of FISA's individual order requirements. In contrast, section 702(c)(4) does not change the definition of electronic surveillance, but clarifies the intent of Congress to allow the targeting of foreign targets outside the United States in accordance with section 702 without an application for a court order under Title I of FISA. The addition of this construction paragraph, as well as the language in section 702(a) that an authorization may occur ''notwithstanding any other law,'' makes clear that nothing in Title I of FISA shall be construed to require a court order under that title for an acquisition that is targeted in accordance with section 702 at a foreign person outside the United States.

Section 702(d) provides, in a manner essentially identical to the Protect America Act, for the adoption by the Attorney General, in consultation with the DNI, of targeting procedures that are reasonably designed to ensure that collection is limited to targeting persons reasonably believed to be outside the United States. As provided in the Protect America Act, the targeting procedures are subject to judicial review and approval. In addition to the requirements of the Protect America Act, however, section 702(d) provides that the targeting procedures also must be reasonably designed to prevent the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States. Section 702(d)(2) subjects these targeting procedures to judicial review and approval.

Section 702(e) provides that the Attorney General, in consultation with the DNI, shall adopt, for acquisitions authorized by section 702(a), minimization procedures that are consistent with section 101(h) or 301(4) of FISA, which establish FISA's minimization requirements for electronic surveillance and physical searches. Section 702(e)(2) provides that the minimization procedures, which are essential to the protection of United States citizens and permanent residents, shall be subject to judicial review and approval. This corrects an omission in the Protect America Act which had not provided for judicial review of the adherence of minimization procedures to statutory requirements.

Section 702(f) provides that the Attorney General, in consultation with the DNI, shall adopt guidelines to ensure compliance with

the limitations in section 702(b), including the prohibitions on the acquisition of purely domestic communications, on targeting persons within the United States, on targeting United States persons located outside the United States, and on reverse targeting. Such guidelines shall also ensure that an application for a court order is filed as required by FISA. It is intended that these guidelines will be used for training intelligence community personnel so that there are clear requirements and procedures governing the appropriate implementation of the authority under this title of FISA. The Attorney General is to provide these guidelines to the congressional intelligence committees, the judiciary committees of the House of Representatives and the Senate, and the FISA Court. Subsequent provisions implement the guidelines requirement. See section 702(g)(2)(A)(iii)(certification requirements); section 702(l)(1) and 702(l)(2) (assessment of compliance with guidelines); and section 707(b)(1)(G)(ii) (reporting on noncompliance with guidelines).

Section 702(g) requires that the Attorney General and the DNI provide to the FISA Court, prior to implementation of an authorization under subsection (a), a written certification, with any supporting affidavits. In exigent circumstances, the Attorney General and DNI may make a determination that, without immediate implementation, intelligence important to the national security will be lost or not timely acquired prior to the implementation of an authorization. In exigent circumstances, if time does not permit the submission of a certification prior to the implementation of an authorization, the certification must be submitted to the FISA Court no later than seven days after the determination is made. This seven-day time period for submission of a certification in the case of exigent circumstances is identical to the time period by which the Attorney General must apply for a court order after authorizing an emergency surveillance under other provisions of FISA, as amended by this Act.

Section 702(g)(2) sets forth the requirements that must be contained in the written certification. These elements include: that the targeting and minimization procedures have been approved by the FISA Court or will be submitted to the court with the certification; that guidelines have been adopted to ensure compliance with the limitations of subsection (b) have been adopted; that those procedures and guidelines are consistent with the Fourth Amendment; that the acquisition is targeted at persons reasonably believed to be outside the United States; that a significant purpose of the acquisition is to obtain foreign intelligence information; and an effective date for the authorization that in most cases is at least 30 days after the submission of the written certification. Additionally, as an overall limitation on the method of acquisition. permitted under section 702, the certification must attest that the acquisition involves obtaining foreign intelligence information from or with the assistance of an electronic communication service provider.

Requiring an effective date in the certification serves to identify the beginning of the period of authorization (which is likely to be a year) for collection and to alert the FISA Court of when the Attorney General and DNI are seeking to begin collection. Section 702(g)(3) permits the Attorney General and DNI to change the effective date in the certification by amending the certification.

As with the Protect America Act, the certification under section 702(g)(4) is not required to identify the specific facilities, places, premises, or property at which the acquisition under section 702(a) will be directed or conducted. The certification shall be subject to review by the FISA Court.

Section 702(h) authorizes the Attorney General and the DNI to direct, in writing, an electronic communication service provider to furnish the Government with all information, facilities, or assistance necessary to accomplish the acquisition authorized under subsection 702(a). It requires compensation for this assistance and provides that no cause of action shall lie in any court against an electronic communication service provider for its assistance in accordance with a directive. Section 702(h) also establishes expedited procedures in the FISA Court for a provider to challenge the legality of a directive or the Government to enforce it. In either case, the question for the court is whether the directive meets the requirements of section 702 and is otherwise lawful. Whether the proceeding begins as a provider challenge or a Government enforcement petition, if the court upholds the directive as issued or modified, the court shall order the provider to comply. Failure to comply may be punished as a contempt of court. The proceedings shall be expedited and decided within 30 days, unless that time is extended under section 702(j)(2).

Section 702(i) provides for judicial review of any certification required by section 702(g) and the targeting and minimization procedures adopted pursuant to sections 702(d) and 702(e). In accordance with section 702(i)(5), if the Attorney General and the DNI seek to reauthorize or replace an authorization in effect under the Act, they shall submit, to the extent practicable, the certification and procedures at least 30 days prior to the expiration of such authorization.

The court shall review certifications to determine whether they contain all the required elements. It shall review targeting procedures to assess whether they are reasonably designed to ensure that the acquisition activity is limited to the targeting of persons reasonably believed to be located outside the United States and prevent the intentional acquisition of any communication whose sender and intended recipients are known to be located in the United States. The Protect America Act had limited the review of targeting procedures to a ''clearly erroneous'' standard; section 702(i) omits that limitation. For minimization procedures, section 702(i) provides that the court shall review them to assess whether they meet the statutory requirements. The court is to review the certifications and procedures and issue its order within 30 days after they were submitted unless that time is extended under section 702(j)(2). The Attorney General and the DNI may also amend the certification or procedures at any time under section 702(i)(1)(C), but those amended certifications or procedures must be submitted to the court in no more than 7 days after amendment. The amended procedures may be used pending the court's review.

If the FISA Court finds that the certification contains all the required elements and that the targeting and minimization procedures are consistent with the requirements of subsections (d) and (e) and with the Fourth Amendment, the court shall enter an order approving their use or continued use for the acquisition authorized by section 702(a). If it does not so find, the court shall order the Government, at its election, to correct any deficiencies or cease, or not begin, the acquisition. If acquisitions have begun, they may continue during any rehearing en banc of an order requiring the correction of deficiencies. If the Government appeals to the Foreign Intelligence Surveillance Court of Review, any collection that has begun may continue at least until that court enters an order, not later than 60 days after filing of the petition for review, which determines whether all or any part of the correction order shall be implemented during the appeal

Section 702(j)(1) provides that judicial proceedings are to be conducted as expeditiously as possible. Section 702(j)(2) provides that the time limits for judicial review in section 702 (for judicial review of certifications and procedures or in challenges or enforcement proceedings concerning directives) shall apply unless extended, by written order, as necessary for good cause in a manner consistent with national security.

Section 702(k) requires that records of proceedings under section 702 shall be maintained by the FISA Court under security measures adopted by the Chief Justice in consultation with the Attorney General and the DNI. In addition, all petitions are to be filed under seal and the FISA Court, upon the request of the Government, shall consider ex parte and in camera any Government submission or portions of a submission that may include classified information. The Attorney General and the DNI are to retain directives made or orders granted for not less than 10 years.

Section 702(l) provides for oversight of the implementation of Title VII. It has three parts. First, the Attorney General and the DNI shall assess semiannually under subsection (l)(1) compliance with the targeting and minimization procedures, and the Attorney General guidelines for compliance with limitations under section 702(b), and submit the assessment to the FISA Court and to the congressional intelligence and judiciary committees, consistent with congressional rules.

Second, under subsection (l)(2)(A), the Inspector General of the Department of Justice and the inspector general (''IG'') of any intelligence community element authorized to acquire foreign intelligence under section 702(a) are authorized to review compliance of their agency or element with the targeting and minimization procedures adopted in accordance with subsections (d) and (e) and the guidelines adopted in accordance with subsection (f). Subsections (l)(2)(B) and (l)(2)(C) mandate several statistics that the IGs shall review with respect to United States persons, including the number of disseminated intelligence reports that contain references to particular U.S. persons, the number of U.S. persons whose identities were disseminated in response to particular requests, and the number of targets later determined to be located in the United States. Their reports shall be submitted to the Attorney General, the DNI, and the appropriate congressional committees. Section 702(l)(2) provides no statutory schedule for the completion of these IG reviews; the IGs should coordinate with the heads of their agencies about the timing for completion of the IG reviews so that they are done at a time that would be useful for the agency heads to complete their semiannual reviews.

Third, under subsection (l)(3), the head of an intelligence community element that conducts an acquisition under section 702 shall review annually whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition and provide an accounting of information pertaining to United States persons similar to that included in the IG report. Subsection (l)(3) also encourages the

head of the element to develop procedures to assess the extent to which the new authority acquires the communications of U.S. persons, and to report the results of such assessment. The review is to be used by the head of the element to evaluate the adequacy of minimization procedures. The annual review is to be submitted to the FISA Court, the Attorney General and the DNI, and to the appropriate congressional committees.

Section 703. Certain Acquisition Inside the United States Targeting United States Persons Outside the United States

Section 703 governs the targeting of United States persons who are reasonably believed to be outside the United States when the acquisition of foreign intelligence is conducted inside the United States. The authority and procedures of section 703 apply when the acquisition either constitutes electronic surveillance, as defined in Title I of FISA, or is of stored electronic communications or stored electronic data. If the United States person returns to the United States, acquisition under section 703 must cease. The Government may always, however, obtain an order or authorization under another title of FISA.

The application procedures and provisions for a FISA Court order in sections 703(b) and 703(c) are drawn from Titles I and III of FISA. Key among them is the requirement that the FISA Court determine that there is probable cause to believe that, for the United States person who is the target of the surveillance, the person is reasonably believed to be located outside the United States and is a foreign power or an agent, officer or employee of a foreign power. The inclusion of United States persons who are officers or employees of a foreign power, as well as those who are agents of a foreign power as that term is used in FISA, is intended to permit the type of collection against United States persons outside the United States that has been allowed under existing Executive Branch guidelines. The FISA Court shall also review and approve minimization procedures that will be applicable to the acquisition, and shall order compliance with such procedures.

As with FISA orders against persons in the United States, FISA orders against United States persons outside of the United States under section 703 may not exceed 90 days and may be renewed for additional 90–day periods upon the submission of renewal applications. Emergency authorizations under section 703 are consistent with the requirements for emergency authorizations in FISA against persons in the United States, as amended by this Act; the Attorney General may authorize an emergency acquisition if an application is submitted to the FISA Court in not more than seven days.

Section 703(g) is a construction provision that clarifies that, if the Government obtains an order and target a particular United States person in accordance with section 703, FISA does not require the Government to seek a court order under any other provision of FISA to target that United States person while that person is reasonably believed to be located outside the United States.

Section 704. Other Acquisitions Targeting United States Persons Outside the United States

Section 704 governs other acquisitions that target United States persons who are outside the United States. Sections 702 and 703 address acquisitions that constitute electronic surveillance or the acquisition of stored electronic communications. In contrast, as provided in section 704(a)(2), section 704 addresses any targeting of a United States person outside of the United States under circumstances in which that person has a reasonable expectation of privacy and a warrant would be required if the acquisition occurred within the United States. It thus covers not only communications intelligence, but, if it were to occur, the physical search of a home, office, or business of a United States person by an element of the United States intelligence community, outside of the United States.

Pursuant to section 704(a)(3), if the targeted United States person is reasonably believed to be in the United States while an order under section 704 is in effect, the acquisition against that person shall cease unless authority is obtained under another applicable provision of FISA. Likewise, the Government may not use section 704 to authorize an acquisition of foreign intelligence inside the United States.

Section 704(b) describes the application to the FISA Court that is required. For an order under section 704(c), the FISA Court must determine that there is probable cause to believe that the United States person who is the target of the acquisition is reasonably believed to be located outside the United States and is a foreign power, or an agent, officer or employee of a foreign power. An order is valid for a period not to exceed 90 days, and may be renewed for additional 90-day periods upon submission of renewal applications meeting application requirements.

Because an acquisition under section 704 is conducted outside the United States, or is otherwise not covered by FISA, the FISA Court is expressly not given jurisdiction to review the means by which an acquisition under this section may be conducted. Although the FISA Court's review is limited to determinations of probable cause, section 704 anticipates that any acquisition conducted pursuant to a section 704 order will in all other respects be conducted in compliance with relevant regulations and Executive Orders governing the acquisition of foreign intelligence outside the United States, including Executive Order 12333 or any successor order.

Section 705. Joint Applications and Concurrent Authorizations

Section 705 provides that if an acquisition targeting a United States person under section 703 or 704 is proposed to be conducted both inside and outside the United States, a judge of the FISA Court may issue simultaneously, upon the request of the Government in a joint application meeting the requirements of sections 703 and 704, orders under both sections as appropriate. If an order authorizing electronic surveillance or physical search has been obtained under section 105 or section 304, and that order is still in effect, the Attorney General may authorize, without an order under section 703 or 704, the targeting of that United States person for the purpose of acquiring foreign intelligence information while such person is reasonably believed to be located outside the United States.

Section 706. Use of Information Acquired Under Title VII

Section 706 fills a void that has existed under the Protect America Act which had contained no provision governing the use of acquired intelligence. Section 706(a) provides that information acquired from an acquisition conducted under section 702 shall be deemed to be information acquired from an electronic surveillance pursuant to Title I of FISA for the purposes of section 106 of FISA, which is the provision of Title I of FISA that governs public disclosure or use in criminal proceedings. The one exception is for subsection (j) of section 106, as the notice provision in that subsection, while manageable in individual Title I proceedings, would present a difficult national security question when applied to a Title VII acquisition. Section 706(b) also provides that information acquired from an acquisition conducted under section 703 shall be deemed to be information acquired from an electronic surveillance pursuant to Title I of FISA for the purposes of section 106 of FISA; however, the notice provision of subsection (j) applies. Section 706 ensures that a uniform standard for the types of information is acquired under the new title.

Section 707. Congressional Oversight

Section 707 provides for additional congressional oversight of the implementation of Title VII. The Attorney General is to fully inform ''in a manner consistent with national security'' the congressional intelligence and judiciary committees about implementation of the Act at least semiannually. Each report is to include any certifications made under section 702, the reasons for any determinations made under section 702(c)(2), any directives issued during the reporting period, a description of the judicial review during the reporting period to include a copy of any order or pleading that contains a significant legal interpretation of section 702, incidents of noncompliance and procedures to implement the section. With respect to sections 703 and 704, the report must contain the number of applications made for orders under each section and the number of such orders granted, modified and denied, as well as the number of emergency authorizations made pursuant to each section and the subsequent orders approving or denying the relevant application. In keeping the congressional intelligence committees fully informed, the Attorney General should provide no less information than has been provided in the past in keeping the committees fully and currently informed.

Section 708. Savings Provision

Section 708 provides that nothing in Title VII shall be construed to limit the authority of the Government to seek an order or authorization under, or otherwise engage in any activity that is authorized under, any other title of FISA. This language is designed to ensure that Title VII cannot be interpreted to prevent the Government from submitting applications and seeking orders under other titles of FISA.

Section 101(b). Table of Contents

Section 101(b) of the bill amends the table of contents in the first section of FISA.

Subsection 101(c). Technical and Conforming Amendments

Section 101(c) of the bill provides for technical and conforming amendments in Title 18 of the United States Code and in FISA.

Section 102. Statement of Exclusive Means by which Electronic Surveillance and Interception of Certain Communications May Be Conducted

Section 102(a) amends Title I of FISA by adding a new Section 112 of FISA. Under the heading of ''Statement of Exclusive Means by which Electronic Surveillance and Interception of Certain Communications May Be Conducted,'' the new section 112(a) states: ''Except as provided in subsection (b), the procedures of chapters 119, 121 and 126 of Title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communication may be conducted.'' New section 112(b) of FISA provides that only an express statutory authorization for electronic surveillance or the interception of domestic wire, oral, or electronic communications, other than as an amendment to FISA or chapters 119, 121, or 206 of Title 18 shall constitute an additional exclusive means for the

purpose of subsection (a). The new section 112 is based on a provision which Congress enacted in 1978 as part of the original FISA that is codified in section 2511(2)(f) of Title 18, United States Code, and which will remain in the U.S. Code.

Section 102(a) strengthens the statutory provisions pertaining to electronic surveillance and interception of certain communications to clarify the express intent of Congress that these statutory provisions are the exclusive means for conducting electronic surveillance and interception of certain communications. With the absence of reference to the Authorization for Use of Military Force, Pub. L. 107–40, (September 18, 2001) (''AUMF''), Congress makes clear that this AUMF or any other existing statute cannot be used in the future as the statutory basis for circumventing FISA. Section 102(a) is intended to ensure that additional exclusive means for surveillance or interceptions shall be express statutory authorizations.

In accord with section 102(b) of the bill, section 109 of FISA that provides for criminal penalties for violations of FISA, is amended to implement the exclusivity requirement added in section 112 by making clear that the safe harbor to FISA's criminal offense provision is limited to statutory authorizations for electronic surveillance or the interception of domestic wire, oral, or electronic communications which are pursuant to a provision of FISA, one of the enumerated chapters of the criminal code, or a statutory authorization that expressly provides an additional exclusive means for conducting the electronic surveillance. By virtue of the cross-reference in section 110 of FISA to section 109, that limitation on the safe harbor in section 109 applies equally to section 110 on civil liability for conducting unlawful electronic surveillance.

Section 102(c) requires that when a certification for assistance to obtain foreign intelligence is based on statutory authority, the certification provided to an electronic communication service provider is to include the specific statutory authorization for the request for assistance and certify that the statutory requirements have been met. This provision is designed to assist electronic communication service providers in understanding the legal basis for any government requests for assistance.

In the section-by-section analysis of S. 2248, the report of the Select Committee on Intelligence (S. Rep. No. 110–209, at 18) described and incorporated the discussion of exclusivity in the 1978 conference report on the original Foreign Intelligence Surveillance Act, in particular the conferees' description of the Youngstown Sheet and Tube Co. v. Sawyer, 343 U.S. 579, 637 (1952) and the application of the principles described there to the current legislation. That full discussion should be deemed incorporated in this section-by-section analysis.

Section 103. Submittal to Congress of Certain Court Orders under the Foreign Intelligence Surveillance Act of 1978

Section 6002 of the Intelligence Reform Act and Terrorism Prevention Act of 2004 (Pub. L. 108–458), added a Title VI to FISA that augments the semiannual reporting obligations of the Attorney General to the intelligence and judiciary committees of the Senate and House of Representatives. Under section 6002, the Attorney General shall report a summary of significant legal interpretations of FISA in matters before the FISA Court or Foreign Intelligence Surveillance Court of Review. The requirement extends to interpretations presented in applications or pleadings filed with either court by the Department of Justice. In addition to the semiannual summary, the Department of Justice is required to provide copies of court decisions, but not orders, which include significant interpretations of FISA. The importance of the reporting requirement is that, because the two courts conduct their business in secret, Congress needs the reports to know how the law it has enacted is being interpreted.

Section 103 improves the Title VI reporting requirements in three ways. First, as significant legal interpretations may be included in orders as well as opinions, section 103 requires that orders also be provided to the committees. Second, as the semiannual report often takes many months after the end of the semiannual period to prepare, section 103 accelerates provision of information about significant legal interpretations by requiring the submission of such decisions, orders, or opinions within 45 days. Finally, section 103 requires that the Attorney General shall submit a copy of any such decision, order, or opinion, and any pleadings, applications, or memoranda of law associated with such decision, order, or opinion, from the period five years preceding enactment of the bill that has not previously been submitted to the congressional intelligence and judiciary committees.

OVERVIEW OF SECTIONS 104 THROUGH SECTION 109. FISA STREAMLINING

Sections 104 through 109 amend various sections of FISA for such purposes as reducing a paperwork requirement, modifying time requirements, or providing additional flexibility in terms of the range of Government officials who may authorize FISA actions. Collectively, these amendments are described as streamlining amendments. In general, they are intended to increase the efficiency of the FISA process without depriving the FISA Court of the information it needs to make findings required under FISA.

Section 104. Applications for Court Orders

Section 104 of the bill strikes two of the eleven paragraphs on standard information in an application for a surveillance order under section 104 of FISA, either because the information is provided elsewhere in the application process or is not needed.

In various places, FISA has required the submission of ''detailed'' information, as in section 104 of FISA, ''a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance.'' The DNI requested legislation that asked that ''summary'' be substituted for ''detailed'' for this and other application requirements, in order to reduce the length of FISA applications. In general, the bill approaches this by eliminating the mandate for ''detailed'' descriptions, leaving it to the FISA Court and the Government to work out the level of specificity needed by the FISA Court to perform its statutory responsibilities. With respect to one item of information, ''a statement of the means by which the surveillance will be effected,'' the bill modifies the requirement by allowing for ''a summary statement.''

In aid of flexibility, section 104 increases the number of individuals who may make FISA applications by allowing the President to designate the Deputy Director of the Federal Bureau of Investigation (''FBI'') as one of those individuals. This should enable the Government to move more expeditiously to obtain certifications when the Director of the FBI is away from Washington or otherwise unavailable.

Subsection (b) of section 104 of FISA is eliminated as obsolete in light of current applications. The Director of the Central Intelligence Agency is added to the list of officials who may make a written request to the Attorney General to personally review a FISA application as the head of the CIA had this authority prior to the establishment of the Office of the Director of National Intelligence.

Section 105. Issuance of an Order

Section 105 strikes from Section 105 of FISA several unnecessary or obsolete provisions. Section 105 strikes subsection (c)(1)(F) of Section 105 of FISA which requires minimization procedures applicable to each surveillance device employed because Section 105(c)(2)(A) requires each order approving electronic surveillance to direct the minimization procedures to be followed.

Subsection (a)(6) reorganizes, in more readable form, the emergency surveillance provision of section 105(f), now redesignated section 105(e), with a substantive change of extending from 3 to 7 days the time by which the Attorney General must apply for and obtain a court order after authorizing an emergency surveillance. The purpose of the change is to help make emergency authority a more practical tool while keeping it within the parameters of FISA.

Subsection (a)(7) adds a new paragraph to section 105 of FISA to require the FISA Court, on the Government's request, when granting an application for electronic surveillance, to authorize at the same time the installation and use of pen registers and trap and trace devices. This will save the paperwork that had been involved in making two applications.

Section 106. Use of Information

Section 106 amends section 106(i) of FISA with regard to the limitations on the use of unintentionally acquired information. Currently, section 106(i) of FISA provides that unintentionally acquired radio communication between persons located in the United States must be destroyed unless the Attorney General determines that the contents of the communications indicates a threat of death or serious bodily harm to any person. Section 106 of the bill amends subsection 106(i) of FISA by making it technology neutral on the principle that the same rule for the use of information indicating threats of death or serious harm should apply no matter how the communication is transmitted.

Section 107. Amendments for Physical Searches

Section 107 makes changes to Title III of FISA: changing applications and orders for physical searches to correspond to changes in sections 104 and 105 on reduction of some application paperwork; providing the FBI with administrative flexibility in enabling its Deputy Director to be a certifying officer; and extending the time, from 3 days to 7 days, for applying for and obtaining a court order after authorization of an emergency search.

Section 303(a)(4)(C), which will be redesignated section 303(a)(3)(C), requires that each application for physical search authority state the applicant's belief that the property is ''owned, used, possessed by, or is in transmit to or from'' a foreign power or an agent of a foreign power. In order to provide needed flexibility and to make the provision consistent with electronic surveillance provisions, section 107(a)(1)(D) of the bill allows the FBI to apply for authority to search property that also is ''about to be'' owned, used, or possessed by a foreign power or agent of a foreign power, or in transit to or from one.

Section 108. Amendments for Emergency Pen Registers and Trap and Trace Devices

Section 108 amends section 403 of FISA to extend from 2 days to 7 days the time for applying for and obtaining a court order after an emergency installation of a pen register or trap and trace device. This change harmonizes among FISA's provisions for electronic surveillance, search, and pen register/

trap and trace authority the time requirements that follow the Attorney General's decision to take emergency action.

Section 109. Foreign Intelligence Surveillance Court

Section 109 contains four amendments to section 103 of FISA, which establishes the FISA Court and the Foreign Intelligence Surveillance Court of Review.

Section 109(a) amends section 103 to provide that judges on the FISA Court shall be drawn from ''at least seven'' of the United States judicial circuits. The current requirement—that the eleven judges be drawn from seven judicial circuits (with the number appearing to be a ceiling rather than a floor) has proven unnecessarily restrictive or complicated for the designation of the judges to the FISA Court.

Section 109(b) amends section 103 to allow the FISA Court to hold a hearing or rehearing of a matter en banc, which is by all the judges who constitute the FISA Court sitting together. The Court may determine to do this on its own initiative, at the request of the Government in any proceeding under FISA, or at the request of a party in the few proceedings in which a private entity or person may be a party, i.e., challenges to document production orders under Title V, or proceedings on the legality or enforcement of directives to electronic communication service providers under Title VII.

Under section 109(b), en banc review may be ordered by a majority of the judges who constitute the FISA Court upon a determination that it is necessary to secure or maintain uniformity of the court's decisions or that a particular proceeding involves a question of exceptional importance. En banc proceedings should be rare and in the interest of the general objective of fostering expeditious consideration of matters before the FISA Court.

Section 109(c) provides authority for the entry of stays, or the entry of orders modifying orders entered by the FISA Court or the Foreign Intelligence Surveillance Court of Review, pending appeal or review in the Supreme Court. This authority is supplemental to, and does not supersede, the specific provision in section 702(i)(4)(B) that acquisitions under Title VII may continue during the pendency of any rehearing en banc and appeal to the Court of Review subject to the requirement for a determination within 60 days under section 702(i)(4)(C).

Section 109(d) provides that nothing in FISA shall be construed to reduce or contravene the inherent authority of the FISA Court to determine or enforce compliance with any order of that court or with a procedure approved by it.

Section 110. Weapons of Mass Destruction

Section 110 amends the definitions in FISA of foreign power and agent of a foreign power to include individuals who are not United States persons and entities not substantially composed of United States persons that are engaged in the international proliferation of weapons of mass destruction. Section 110 also adds a definition of weapon of mass destruction to the Act that defines weapons of mass destruction to cover explosive, incendiary, or poison gas devices that are designed, intended to, or have the capability to cause a mass casualty incident or death, and biological, chemical and nuclear weapons that are designed, intended to, or have the capability to cause illness or serious bodily injury to a significant number of persons. Section 110 also makes corresponding, technical and conforming changes to FISA.

TITLE II. PROTECTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS

This title establishes a new Title VIII of FISA. The title addresses liability relief for electronic communication service providers who have been alleged in various civil actions to have assisted the U.S. Government between September 11, 2001, and January 17, 2007, when the Attorney General announced the termination of the Terrorist Surveillance Program. In addition, Title VIII contains provisions of law intended to implement statutory defenses for electronic communication service providers and others who assist the Government in accordance with precise, existing legal requirements, and for providing for federal preemption of state investigations. The liability protection provisions of Title VIII are not subject to sunset.

Section 801. Definitions

Section 801 establishes definitions for Title VIII. Several are of particular importance.

The term ''assistance'' is defined to mean the provision of, or the provision of access to, information, facilities, or another form of assistance. The word ''information'' is itself described in a parenthetical to include communication contents, communication records, or other information relating to a customer or communications. ''Contents'' is defined by reference to its meaning in Title I of FISA. By that reference, it includes any information concerning the identity of the parties to a communication or the existence, substance, purport, or meaning of it.

The term ''civil action'' is defined to include a ''covered civil action.'' Thus, ''covered civil actions'' are a subset of civil actions, and everything in new Title VIII that is applicable generally to civil actions is also applicable to ''covered civil actions.'' A ''covered civil action'' has two key elements. It is defined as a civil action filed in a federal or state court which (1) alleges that an electronic communication service provider (a defined term) furnished assistance to an element of the intelligence community and (2) seeks monetary or other relief from the electronic communication service provider related to the provision of the assistance. Both elements must be present for the lawsuit to be a covered civil action.

The term ''person'' (the full universe of those protected by section 802) is necessarily broader than the definition of electronic communication service provider. The aspects of Title VIII that apply to those who assist the Government in accordance with precise, existing legal requirements apply to all who may be ordered to provide assistance under FISA, such as custodians of records who may be directed to produce records by the FISA Court under Title V of FISA or landlords who may be required to provide access under Title I or III of FISA, not just to electronic communication service providers.

Section 802. Procedures for Implementing Statutory Defenses

Section 802 establishes procedures for implementing statutory defenses. Notwithstanding any other provision of law, no civil action may lie or be maintained in a federal or state court against any person for providing assistance to an element of the intelligence community, and shall be promptly dismissed, if the Attorney General makes a certification to the district court in which the action is pending. (If an action had been commenced in state court, it would have to be removed, pursuant to section 802(g) to a district court, where a certification under section 802 could be filed.) The certification must state either that the assistance was not provided (section 802(a)(5)) or, if furnished, that it was provided pursuant to specific statutory requirements (sections 802(a)(1–4)). Three of these underlying requirements, which are specifically described in section 802 (sections 802(a)(1–3)), come from existing law. They include: an order of the FISA Court directing assistance, a certification in writing under sections 2511(2)(a)(ii)(B) or 2709(b) of Title 18, or directives to electronic communication service providers under particular sections of FISA or the Protect America Act.

The Attorney General may only make a certification under the fourth statutory requirement, section 802(a)(4), if the civil action is a covered civil action (as defined in section 801(5)). To satisfy the requirements of section 802(a)(4), the Attorney General must certify first that the assistance alleged to have been provided by the electronic communication service provider was in connection with an intelligence activity involving communications that was (1) authorized by the President between September 11, 2001 and January 17, 2007 and (2) designed to detect or prevent a terrorist attack or preparations for one against the United States. In addition, the Attorney General must also certify that the assistance was the subject of a written request or directive, or a series of written requests or directives, from the Attorney General or the head (or deputy to the head) of an element of the intelligence community to the electronic communication service provider indicating that the activity was (1) authorized by the President and (2) determined to be lawful. The report of the Select Committee on Intelligence contained a description of the relevant correspondence provided to electronic communication service providers (S. Rep. No. 110–209, at 9).

The district court must give effect to the Attorney General's certification unless the court finds it is not supported by substantial evidence provided to the court pursuant to this section. In its review, the court may examine any relevant court order, certification, written request or directive submitted by the Attorney General pursuant to subsection (b)(2) or by the parties pursuant to subsection (d). Section 802 is silent on the nature of any additional materials that the Attorney General may submit beyond those listed in subsection (b)(2) if the Attorney General determines they are necessary to provide substantial evidence to support the certification, such as if the Attorney General certifies that a person did not provide the alleged assistance.

If the Attorney General files a declaration that disclosure of a certification or supplemental materials would harm national security, the court shall review the certification and supplemental materials in camera and ex parte, which means with only the Government present. A public order following that review shall be limited to a statement as to whether the case is dismissed and a description of the legal standards that govern the order, without disclosing the basis for the certification of the Attorney General. The purpose of this requirement is to protect the classified national security information involved in the identification of providers who assist the Government. A public order shall not disclose whether the certification was based on an order, certification, or directive, or on the ground that the electronic communication service provider furnished no assistance. Because the district court must find that the certification—including a certification that states that a party did not provide the alleged assistance—is supported by substantial evidence in order to dismiss a case, an order failing to dismiss a case is only a conclusion that the substantial evidence test has not been met. It does not indicate whether a particular provider assisted the government.

Subsection (d) makes clear that any plaintiff or defendant in a civil action may submit any relevant court order, certification, written request, or directive to the district court for review and be permitted to participate in the briefing or argument of any legal

issue in a judicial proceeding conducted pursuant to this section, to the extent that such participation does not require the disclosure of classified information to such party. The authorities of the Attorney General under section 802 are to be performed only by the Attorney General, the Acting Attorney General, or the Deputy Attorney General.

In adopting the portions of section 802 that allow for liability protection for those electronic communication service providers who may have participated in the program of intelligence activity involving communications authorized by the President between September 11, 2001, and January 17, 2007, the Congress makes no statement on the legality of the program. This is in accord with the statement in the report of the Senate Intelligence Committee that ''Section 202 [as the immunity provision was then numbered] makes no assessment about the legality of the President's program.'' S. Rep. No. 110–209, at 9.

Section 803. Preemption of State Investigations

Section 803 addresses actions taken by a number of state regulatory commissions to force disclosure of information concerning cooperation by state regulated electronic communication service providers with U.S. intelligence agencies. Section 803 preempts these state actions and authorizes the United States to bring suit to enforce the prohibition.

Section 804. Reporting

Section 804 provides for oversight of the implementation of Title VIII. On a semi-annual basis, the Attorney General is to provide to the appropriate congressional committees a report on any certifications made under section 802, a description of the judicial review of the certifications made under section 802, and any actions taken to enforce the provisions of section 803.

Section 202. Technical Amendments

Section 202 amends the table of contents of the first section of FISA.

TITLE III. REVIEW OF PREVIOUS ACTIONS

Title III directs the Inspectors General of the Department of Justice, the Office of the Director of National Intelligence, the Department of Defense, the National Security Agency, and any other element of the intelligence community that participated in the President's surveillance program, defined in the title to mean the intelligence activity involving communications that was authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007, to complete a comprehensive review of the program with respect to the oversight authority and responsibility of each such inspector general.

The review is to include: all of the facts necessary to describe the establishment, implementation, product, and use of the product of the program; access to legal reviews of the program and information about the program; communications with, and participation of, individuals and entities in the private sector related to the program; interaction with the FISA Court and transition to court orders related to the program; and any other matters identified by any such inspector general that would enable that inspector general complete a review of the program with respect to the inspector general's department or element.

The inspectors general are directed to work in conjunction, to the extent practicable, with other inspectors general required to conduct a review, and not unnecessarily duplicate or delay any reviews or audits that have already been completed or are being undertaken with respect to the program. In addition, the Counsel of the Office of Professional Responsibility of the Department of Justice is directed to provide the report of any investigation of that office relating to the program, including any investigation of the process through which the legal reviews of the program were conducted and the substance of such reviews, to the Inspector General of the Department of Justice, who shall integrate the factual findings and conclusions of such investigation into its review.

The inspectors general shall designate one of the Senate confirmed inspectors general required to conduct a review to coordinate the conduct of the reviews and the preparation of the reports. The inspectors general are to submit an interim report within sixty days to the appropriate congressional committees on their planned scope of review. The final report is to be completed no later than one year after enactment and shall be submitted in unclassified form, but may include a classified annex.

The Congress is aware that the Inspector General of the Department of Justice has undertaken a review of the program. This review should serve as a significant part of the basis for meeting the requirements of this title. In no event is this title intended to delay or duplicate the investigation completed to date or the issuance of any report by the Inspector General of the Department of Justice.

TITLE IV. OTHER PROVISIONS

Section 401. Severability

Section 401 provides that if any provision of this bill or its application is held invalid, the validity of the remainder of the Act and its application to other persons or circumstances is unaffected.

Section 402. Effective Date

Section 402 provides that except as provided in the transition procedures (section 404 of the title), the amendments made by the bill shall take effect immediately.

Section 403. Repeals

Section 403(a) provides for the repeal of those sections of FISA enacted as amendments to FISA by the Protect America Act, except as provided otherwise in the transition procedures of section 404, and makes technical and conforming amendments.

Section 403(b) provides for the sunset of the FISA Amendments Act on December 31, 2012, except as provided in section 404 of the bill. This date ensures that the amendments by the Act will be reviewed during the next presidential administration. The subsection also makes technical and conforming amendments.

Section 404. Transition Procedures

Section 404 establishes transition procedures for the Protect America Act and the Foreign Intelligence Surveillance Act Amendments of 2008.

Subsection (a)(1) continues in effect orders, authorizations, and directives issued under FISA, as amended by section 2 of the Protect America Act, until the expiration of such order, authorization or directive.

Subsection (a)(2) sets forth the provisions of FISA and the Protect America Act that continue to apply to any acquisition conducted under such Protect America Act order, authorization or directive. In addition, subsection (a) clarifies the following provisions of the Protect America Act: the protection from liability provision of subsection (l) of Section 105B of FISA as added by section 2 of the Protect America Act; jurisdiction of the FISA Court with respect to a directive issued pursuant to the Protect America Act, and the Protect America Act reporting requirements of the Attorney General and the DNI. Subsection (a) is made effective as of the date of enactment of the Protect America Act (August 5, 2007). The purpose of these clarifications and the effective date for them is to ensure that there are no gaps in the legal protections contained in that act, including for authorized collection following the sunset of the Protect America Act, notwithstanding that its sunset provision was only extended once until February 16, 2008. Additionally, subsection (a)(3) fills a void in the Protect America Act and applies the use provisions of section 106 of FISA to collection under the Protect America Act, in the same manner that section 706 does for collection under Title VII.

In addition, subsection (a)(7) makes clear that if the Attorney General and the DNI seek to replace an authorization made pursuant to the Protect America Act with an authorization made under section 702, as added by this bill, they are, to the extent practicable, to submit a certification to the FISA Court at least 30 days in advance of the expiration of such authorization. The authorizations, and any directives issued pursuant to the authorization, are to remain in effect until the FISA Court issues an order with respect to that certification.

Subsection (b) provides similar treatment for any order of the FISA Court issued under Title VII of this bill in effect on December 31, 2012.

Subsection (c) provides transition procedures for the authorizations in effect under section 2.5 of Executive Order 12333. Those authorizations shall continue in effect until the earlier of the date that authorization expires or the date that is 90 days after the enactment of this Act. This transition provision is particularly applicable to the transition to FISA Court orders that will occur as a result of sections 703 and 704 of FISA, as added by this bill.

Mr. ROCKEFELLER. Before laying out where this bill improves upon the Senate-passed bill—and it does—let me first restate how proud I am of our efforts in February that laid the foundation for the final action we will soon take. Our Senate bill established the framework for a judicial review of the targeting and minimization procedures which are at the heart of the present compromise. It also established clear authority and procedures for individual judicial orders where there is probable cause for targeting Americans overseas. This may long be regarded as the single most important innovation of the act we will soon pass.

Additionally, during debate on our Senate bill, we identified other needed improvements that have been addressed in this compromise, including strengthening exclusivity, something Senator FEINSTEIN was a great advocate of, and also a shorter sunset, something Senator CARDIN wanted to see happen; that is, when the bill sunsets, and it will end before the end of the next administration.

The bottom line is, we started with a good product in February and, through hard work and compromise with all parties in both Houses, we have made it even stronger. And we have. We have. We are all slightly aghast at what we were able to do. So let me mention a few of the key features in this new compromise.

First, the agreement makes changes in the provisions related to targeting foreigners overseas to increase protections for Americans. It requires the

FISA Court to approve targeting and minimization procedures before collections begin in virtually all instances. The Attorney General and the Director of National Intelligence can move forward without a court order only in what will be extremely rare instances, if emergency circumstances exist. And there is a way that is done which is time minimized, a total of 37 days, but it doesn't happen.

It preserves the definition of ''electronic surveillance.'' That is important. It doesn't sound very interesting, but it is important. It preserves that definition found in title I of FISA to ensure that there are no unintended consequences—that sounds like gobbledygook, but it isn't—relating to when a warrant must be obtained under FISA or how information obtained using FISA can be used. In other words, we leave the definition of ''telecommunications'' exactly as it is. We do not change it. If there is to be a change, then there must be legislative action to expand or make that change.

But unintended consequences is when something you do in one bill affects something that happened in another bill, and you just do not know it at the time you are doing it. You have to be very careful about that. So that is why we did that.

Second, the agreement contains additional measures compared to the Senate bill to improve oversight and accountability—the two greatest needs we have in the Congress and for the administration.

It shortens the sunset of the legislation to December 31, 2012, to ensure the FISA modernization law we are going to pass is reviewed in the next administration.

It requires a comprehensive review by multiple inspectors general of the President's warrantless surveillance program to ensure Congress has a complete set of facts about the program. We will have them. We will be informed. The public will be informed about that.

Third, the agreement assures that no past or future congressional authorization for the use of military force may be used to justify the conduct of warrantless surveillance electronically, unless Congress explicitly provides that can happen. That means the President cannot ever do what he did again. No other President can ever do that. FISA rules, and only the Congress can make the change.

With enactment of this agreement, there will be no question that Congress intends that only an express statutory authorization for electronic surveillance or interception may constitute an additional exclusive means for that surveillance or interception. It is logical, and it is necessary.

This is reinforced by the clarification that criminal and civil penalties can be imposed for any electronic surveillance that is not conducted in accordance with FISA or specifically listed provisions of title XVIII. We are prepared to do criminal, civil fines. It is in the bill. It will happen if somebody tries to do something.

Finally, with respect to the liability protection provisions of title II, the new language is improved in a number of ways. The agreement makes clear that the district court has the authority to review the documents provided to the companies to determine whether the Attorney General has met the statutory requirements for the certification under the statute.

In addition, the plaintiffs are given their fair day in court in our bill, as the parties to the litigation are explicitly provided the opportunity to brief the legal and constitutional issues before the court, to the court. And the district court, in deciding the question, must go beyond whether the Attorney General abused his discretion in preparing his certification to seek the dismissal of a lawsuit. Under the agreement, the district court must decide whether the Attorney General's certification is supported by ''substantial evidence.'' It is a good bar.

These are important additions and clarifications, and I hope many of my colleagues will recognize how far we have come. Remember, this is a bill that the House would not even vote on a couple of months ago. They would not even vote on it. So we just went over to them, to STENY HOYER, who deserves all praise for being an unbelievable moderator, bringer-together of opinions and people and a lot of people who are reluctant over there about doing anything, and gradually, through compromise, through extensive consultation, worked it out so they could agree on the bill. Indeed, Speaker PELOSI went to the floor of the House and spoke as to why she was going to vote for the bill—which she did.

Now, before I conclude, I must say a few words about all the people—and spare me on this, I say to the Presiding Officer—who worked together to make this happen.

House majority leader STENY HOYER is—I have down here in my text ''a near saint.'' I have decided that is in extremis. I think he is extraordinary—extraordinary. He deserves tremendous credit for his ability to bring people together with strongly divergent views and not give up until a compromise is achieved. He has everything on his plate, but he always seemed to have time for—he kept saying he was not really schooled in this, but he knew everything that was going on.

Vice Chairman BOND and House Minority Whip BLUNT also deserve our thanks and our praise for their hard work and unending commitment. The other leaders of the House and Senate Intelligence and Judiciary Committees—SILVESTRE REYES, PETER HOEKSTRA, JOHN CONYERS, LAMAR SMITH, and on our side PAT LEAHY and ARLEN SPECTER—not all of whom have or will support the final bill—also deserve thanks for their valuable contributions for making the legislation a much better product.

My own leader, HARRY REID, deserves special credit for insisting that we persevere on protecting national security and civil liberties, even though at times he believed he himself could not support our ultimate compromise. I do not know what that result will be, but he has been terrific in pushing us.

In addition, we would not have reached this critical juncture without the unlimited support of the Director of National Intelligence, Mike McConnell, Attorney General Michael Mukasey, and the dedicated staff of the DNI, DOJ, and NSA counsel, in particular Ben Powell, Brett Gerry, John Demers, Vito Potenza, and Chris Thuma. I did not think I would be saying those words, but I am saying them, and I do believe them deeply. All of those individuals worked with us for months on this issue, putting in long hours, even at times when there was not light at the end of the tunnel.

As we know all too well, the legislative efforts of the House and the Senate would come to a screeching halt if we were forced to operate without the seamless efforts of our staffs.

I would like to thank my exceptionally talented staff: Andy Johnson, Mike Davidson, Alissa Starzak, Chris Healey, and Melvin Dubee—all of whom brought an enormous amount of expertise, creativity, and perseverance to the table.

I want to single out Mike Davidson. Mike Davidson is a very smart lawyer. He has this way of when everything is collapsing all about him—it is kind of a let's come and reason together. Let's be practical. He is such a good person and so smart and so respected for what he knows that people follow his lead. It was in many ways because of him that a lot of our problems got solved. He would not quit on them, and he would keep saying: Now, let's deal with this practically. And he uses his hands just in that manner. It worked because we have a bill.

I would also like to thank Mariah Sixkiller, Brian Diffel, Joe Onek, Mike Sheehy, Jeremy Bash, Wyndee Parker, Eric Greenwald, Chris Donesa, Lou DeBaca, Perry Apelbaum, Ted Kalo, and Caroline Lynch in the House of Representatives; and in the Senate, Louis Tucker, Jack Livingston, Kathleen Rice, Mary DeRosa, Zulima Espinel, Matt Solomon, Nick Rossi, Ron Weich, Serena Hoy, and Marcel Lettre for their efforts.

I may have left somebody out. But I think the Presiding Officer thinks I have probably done enough. It is heartfelt, and if you have been through the process you really feel what people put into it and what they give up.

Madam President, this is a very proud day for the Senate, for national security and civil liberties, and for the Congress in general. I would venture to say this may be the most important bill we will pass this year. We have proven that compromise is not a lost virtue and that good, sound policy is not only possible, it is achievable.

I thank the Presiding Officer and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Madam President, I see my good friend from West Virginia on the floor. While I have some disagreement with him on the effort he has made on the FISA bill, I commend my friend from West Virginia. He has the thankless task of heading up the Intelligence Committee, which is a difficult job. I wish to acknowledge that and recognize that. My respect for him and the work he is doing and trying to do on this issue is something I respect immensely. Unfortunately, we don't agree on one aspect—at least one aspect—of this bill, but that in no way diminishes my respect for the effort he has made to try to produce as good a bill as he can under the circumstances. You only have to try and manage a bill around here to understand how difficult that can be, as someone who is engaged right now in this housing proposal.

Senator SHELBY and I have spent weeks putting together a bill that has enjoyed almost unanimous support in our committee—19 to 2—coming out of the Banking Committee. We had the vote of 83 to 9 the other day on a cloture motion to deal with a proposal we put together covering everything from mortgage revenue bonds and tax incentives for people to buy foreclosed properties, not to mention the GSE—the government sponsored enterprises—reform, an affordable housing program in perpetuity to assist rental housing opportunities in the Nation, as well as the HOPE for Homeowners Act to deal with the foreclosure crisis. Here we are now approaching the late afternoon of Wednesday. We had the cloture vote yesterday morning, about 30 hours ago. We have yet to have one amendment I can deal with because one Senator is insisting that his bill be paramount, that we disregard the efforts we have made to listen to ideas, to take additional suggestions that have come from other Members to incorporate as part of this bill.

Senator KOHL of Wisconsin has a very good proposal which we have worked out. Senator SUNUNU has made a proposal as well and we have been able to modify it and work with him to be a part of it. Senator ISAKSON has made a proposal we are working on to deal with a date in this bill that could make a difference. Senator BOND has a proposal we are working on dealing with disclosures. Senator KOHL and Senator NELSON are working on a proposal dealing with 401(k)s. All of these ideas have to be held in abeyance because one Senator won't even let us consider these matters on the floor, to bring them up and to deal with them.

It is awfully difficult to understand, when you consider that between 8,000 and 9,000 people every day are filing for foreclosure in this country. This is the center of our economic problems in the Nation.

The Wall Street Journal reported today in a banner headline that consumer confidence in this Nation is at the lowest point it has been since the late 1980s, early 1990s. A report yesterday actually takes it back to 1967. We are also told that home values are declining by the hour in this country. The Case-Schiller Index indicates that home values may decline by as much as 30 percent over the next 2 or 3 years. This is affecting student loans, it is affecting municipal finance, and it is affecting commercial borrowing. We are literally in a stall with the economy growing worse and the level of optimism and confidence of the American people declining at a rapid rate.

There is nothing more important we could do before adjourning for the next week to go home for Independence Day than to deal with this bill. We could literally complete this housing bill in about an hour. That is about all it would take to consider the amendments we can agree to, to adopt the ones we have, and then move this bill off this floor, out of this Chamber to the point that I think the House may accept what we have done, and send the bill to the President for his signature.

What better message to send to those who are facing potential foreclosure, of losing their most important and valuable asset that the overwhelming majority of Americans will ever have, not just in financial terms, but in the context of having a home for their families. This is something most Americans wish for their children, wish for their grandchildren, wish to have themselves, that idea of a home where you grow up and live. The fact that between 8,000 and 9,000 people—not on a weekly basis, not on a monthly basis, but every single day—every day we are home next week, every day we are gone from here, remind yourselves that another 9,000 people are beginning to file foreclosure and losing their homes. Neighborhoods collapse, values in these neighborhoods go down, and we see the continued suffering that goes on in our country, all because I can't even bring up and allow consideration of some amendments on this bill.

We have been at this now since January, trying to put this together and here we are in late June and still unable to get even consideration of amendments or to vote on some we may disagree with. There are many others of our colleagues here who have some ideas. I failed to mention Senator VOINOVICH. We have proposals from Senator LEVIN and Senator STABENOW involving important projects in their State, not to mention Massachusetts as well. There are a number of other things included in this legislation providing the kind of support for those who are out there, including counseling to people going through foreclosure or who could go through foreclosure. All of these elements could make a difference; the community development block grants to mayors, county supervisors, and Governors that could provide some targeted help in neighborhoods that have foreclosed properties.

We learn from screaming headlines on a daily basis—you need not hear my voice; just listen to what is going on in almost every State in the country. Now the States of California and Nevada are particularly hard-pressed, as well as Arizona, Florida, Michigan, and Ohio are seeing these numbers at record levels. The State of Nevada, in fact, I think, on a per capita basis has the worst foreclosure rate in the country, what that State is going through and the people are suffering from in that jurisdiction, with 10, I am told, centers around the State trying to help people hang on to their homes if they can.

Here we have a proposal that would provide that kind of relief, a system that would allow for workouts where people could have a new mortgage they could afford to pay, as well as paying into the program at some cost, and the lenders taking, of course, a significant cut in what they would otherwise be getting. But it would allow us to keep people in their homes.

So in those States that are feeling this particularly, I want them to know there are those of us here—and they ought to know the majority leader of this body, Senator HARRY REID, has been on the forefront of trying to get this bill up, trying to allow us to vote on it to get the job done. I wish to thank him for that, as the chairman of the Banking Committee, to have a majority leader who understands this priority is at the top of our list. I am deeply grateful to him for making it possible for us to get as far as we have.

But to know we are down here with a few remaining hours before we will be leaving for a week or 10 days; knowing that in that period of time, unnecessarily, in my view, more Americans may end up paying that awful price, watching their home value decline, watching them possibly lose their homes; that idea of being able to build that equity and provide for your children's education, to contribute to your retirement, to deal with an unexpected illness in the family where that equity could make a difference, all of that is eroding because we can't get off the dime because we have a colleague who wants to insist that his proposal be paramount, that we drop everything else and deal with that bill. I say that respectfully. I have been here 27 years and this happens periodically. But at this moment, at this time, facing the worst crisis in housing since the Great Depression, this is not the kind of reaction we ought to be getting.

I am going to come here periodically as long as we are here to talk about this. I will make unanimous consent requests, or the leader will, to try and

let us move on this. When objection is heard, then that Senator ought to have the courage, in my view, to stand up and express that objection on why we can't deal with this housing bill. Even if you disagree with the bill, allow us to vote. Allow your colleagues to offer their amendments. They need to explain to the American people why it is that after all of this effort, with an 83-to-9 vote yesterday, that Democrats and Republicans want to do something about housing, but we can't get a bill up and can't consider these outstanding amendments.

I apologize to my colleagues for this, but they ought to know what is going on and why it is. Members have asked me: Why aren't we voting? Why can't we bring up these matters? The reason is because I need unanimous consent to do so and one Senator can object, and because they object, none of these other amendments, Republican or Democratic amendments, can be considered or modified, even, in this context. So that is why we are here and where we are. If people are wondering why, after this long time, despite the efforts of bringing people together, we are not managing to get this bill done, that is the reason. My hope is that common sense and reasonableness may prevail in the coming hour or so that will allow us to get to this. But if we are unable to do so, then that is the reason.

With that, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

Mr. BOND. Madam President, I am hoping very shortly we will vote on or act on or somehow pass an amendment that I have offered, offered on the previous housing bill which, incidentally, I thought was a much better bill than this one.

I ask unanimous consent to speak for—well, Madam President, I am going to continue to tell you that.

The teaser rate problem is one which has afflicted many borrowers in Missouri. They get these offers for loan rates. They are told, verbally, that they can get a good rate when the time expires. The problem is, it is not in writing. So we would require full disclosure in advance, written down. If the people are going to make a representation, it has to be a binding representation. My amendment is designed to advise consumers, before they purchase a home, what they are going to have to pay.

I understand there is a modification that will make this amendment acceptable to all sides. I think it is terribly important to avoid putting so many people, in the future, in the trap that they now find themselves, that we require they disclose what the rates will be, and if they want to offer good terms, they put them in writing.

I urge my colleagues to support this amendment as modified.

I yield the floor.

The PRESIDING OFFICER. All time postcloture has expired.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. I ask unanimous consent the pending amendments be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on the motion to concur, with an amendment.

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

Mr. REID. Madam President, are we in a quorum call?

The PRESIDING OFFICER. We are not.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. I ask unanimous consent that the previous order which was entered regarding the withdrawing of the amendments we vitiated.

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

AMENDMENT NO. 4987, AS MODIFIED, AMENDMENT NO. 4999, AS MODIFIED, AND AMENDMENT NO. 4988, AS MODIFIED

Mr. REID. I ask unanimous consent that the pending amendments No. 4987, Bond; No. 4999, Sununu; and No. 4988, Kohl, be agreed to, as modified, with the changes at the desk.

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

The amendments, as modified, were agreed to, as follows:

AMENDMENT NO. 4987, AS MODIFIED

On page 522, line 2, before the period insert the following: ''including the fact that the initial regular payments are for a specific time period that will end on a certain date, that payments will adjust afterwards potentially to a higher amount, and that there is no guarantee that the borrower will be able to refinance to a lower amount''.

AMENDMENT NO. 4999, AS MODIFIED

On page 538, between lines 6 and 7, insert the following:

TITLE VII—SMALL PUBLIC HOUSING AUTHORITIES PAPERWORK REDUCTION ACT

SEC. 2701. SHORT TITLE.

This title may be cited as the ''Small Public Housing Authorities Paperwork Reduction Act''.

SEC. 2702. PUBLIC HOUSING AGENCY PLANS FOR CERTAIN QUALIFIED PUBLIC HOUSING AGENCIES.

(a) IN GENERAL.—Section 5A(b) of the United States Housing Act of 1937 (42 U.S.C. 1437c–1(b)) is amended by adding at the end the following:

''(3) EXEMPTION OF CERTAIN PHAS FROM FILING REQUIREMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of this Act—

''(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

''(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a 'public housing agency' shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this subsection.

''(B) CIVIL RIGHTS CERTIFICATION.—Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting 'the public housing program of the agency' for 'the public housing agency plan'.

''(C) DEFINITION.—For purposes of this section, the term 'qualified public housing agency' means a public housing agency that meets the following requirements:

''(i) The sum of (I) the number of public housing dwelling units administered by the agency, and (II) the number of vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) administered by the agency, is 550 or fewer.

''(ii) The agency is not designated under section 6(j)(2) as a troubled public housing agency, and does not have a failing score under the section 8 Management Assessment Program during the prior 12 months.''.

(b) RESIDENT PARTICIPATION.—Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

(1) in subsection (e), by inserting after paragraph (3) the following:

''(4) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under subsection (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

''(B) APPLICABILITY OF WAIVER AUTHORITY.—Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting 'the functions described in the second sentence of

paragraph (4)(A)' for 'the functions described in paragraph (2)'.

''(f) PUBLIC HEARINGS.—''; and

(2) in subsection (f) (as so designated by the amendment made by paragraph (1)), by adding at the end the following:

''(5) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) REQUIREMENT.—Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

''(i) to discuss any changes to the goals, objectives, and policies of the agency; and

''(ii) to invite public comment regarding such changes.

''(B) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

''(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the public housing agency during normal business hours; and

''(ii) publish a notice informing the public that—

''(I) the information is available as required under clause (i); and

''(II) a public hearing under subparagraph (A) will be conducted.''.

AMENDMENT NO. 4988, AS MODIFIED

On page 538, between lines 6 and 7, insert the following:

TITLE VIII—FORECLOSURE RESCUE FRAUD PROTECTION

SEC. 2801. SHORT TITLE.

This title may be cited as the ''Foreclosure Rescue Fraud Act of 2008''.

SEC. 2802. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) FORECLOSURE CONSULTANT.—The term ''foreclosure consultant''—

(A) means a person who makes any solicitation, representation, or offer to a homeowner facing foreclosure on residential real property to perform, for gain, or who performs, for gain, any service that such person represents will prevent, postpone, or reverse the effect of such foreclosure; and

(B) does not include—

(i) an attorney licensed to practice law in the State in which the property is located who has established an attorney-client relationship with the homeowner;

(ii) a person licensed as a real estate broker or salesperson in the State where the property is located, and such person engages in acts permitted under the licensure laws of such State;

(iii) a housing counseling agency approved by the Secretary;

(iv) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

(v) a Federal credit union or a State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)); or

(vi) an insurance company organized under the laws of any State.

(3) HOMEOWNER.—The term ''homeowner'', with respect to residential real property for which an action to foreclose on the mortgage or deed of trust on such real property is filed, means the person holding record title to such property as of the date on which such action is filed.

(4) LOAN SERVICER.—The term ''loan servicer'' has the same meaning as the term ''servicer'' in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

(5) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan'' means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act (15 U.S.C. 1602)(v)) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(6) RESIDENTIAL REAL PROPERTY.—The term ''residential real property'' has the meaning given the term ''dwelling'' in section 103 of the Consumer Credit Protection Act (15 U.S.C. 1602).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 2803. MORTGAGE RESCUE FRAUD PROTECTION.

(a) LIMITS ON FORECLOSURE CONSULTANTS.—A foreclosure consultant may not—

(1) claim, demand, charge, collect, or receive any compensation from a homeowner for services performed by such foreclosure consultant with respect to residential real property until such foreclosure consultant has fully performed each service that such foreclosure consultant contracted to perform or represented would be performed with respect to such residential real property;

(2) hold any power of attorney from any homeowner, except to inspect documents, as provided by applicable law;

(3) receive any consideration from a third party in connection with services rendered to a homeowner by such third party with respect to the foreclosure of residential real property, unless such consideration is fully disclosed, in a clear and conspicuous manner, to such homeowner in writing before such services are rendered;

(4) accept any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation with respect to services provided by such foreclosure consultant in connection with the foreclosure of residential real property; or

(5) acquire any interest, directly or indirectly, in the residence of a homeowner with whom the foreclosure consultant has contracted.

(b) CONTRACT REQUIREMENTS.—

(1) WRITTEN CONTRACT REQUIRED.—Notwithstanding any other provision of law, a foreclosure consultant may not provide to a homeowner a service related to the foreclosure of residential real property—

(A) unless—

(i) a written contract for the purchase of such service has been signed and dated by the homeowner; and

(ii) such contract complies with the requirements described in paragraph (2); and

(B) before the end of the 3-business-day period beginning on the date on which the contract is signed.

(2) TERMS AND CONDITIONS OF CONTRACT.—The requirements described in this paragraph, with respect to a contract, are as follows:

(A) The contract includes, in writing—

(i) a full and detailed description of the exact nature of the contract and the total amount and terms of compensation;

(ii) the name, physical address, phone number, email address, and facsimile number, if any, of the foreclosure consultant to whom a notice of cancellation can be mailed or sent under subsection (d); and

(iii) a conspicuous statement in at least 12 point bold face type in immediate proximity to the space reserved for the homeowner's signature on the contract that reads as follows: ''You may cancel this contract without penalty or obligation at any time before midnight of the 3rd business day after the date on which you sign the contract. See the attached notice of cancellation form for an explanation of this right.''.

(B) The contract is written in the principal language used to solicit or market the services to the homeowner.

(C) The contract is accompanied by the form required by subsection (c)(2).

(c) RIGHT TO CANCEL CONTRACT.—

(1) IN GENERAL.—With respect to a contract between a homeowner and a foreclosure consultant regarding the foreclosure on the residential real property of such homeowner, such homeowner may cancel such contract without penalty or obligation by mailing a notice of cancellation not later than midnight of the 3rd business day after the date on which such contract is executed or would become enforceable against the parties to such contract.

(2) CANCELLATION FORM AND OTHER INFORMATION.—Each contract described in paragraph (1) shall be accompanied by a form, in duplicate, that—

(A) has the heading ''Notice of Cancellation'' in boldface type; and

(B) contains in boldface type the following statement:

''You may cancel this contract, without any penalty or obligation, at any time before midnight of the 3rd day after the date on which the contract is signed by you.

''To cancel this contract, mail or deliver a signed and dated copy of this cancellation notice or any other equivalent written notice to [insert name of foreclosure consultant] at [insert address of foreclosure consultant] before midnight on [insert date].

''I hereby cancel this transaction on [insert date] [insert homeowner signature].''.

(d) WAIVER OF RIGHTS AND PROTECTIONS PROHIBITED.—

(1) IN GENERAL.—A waiver by a homeowner of any protection provided by this section or any right of a homeowner under this section—

(A) shall be treated as void; and

(B) may not be enforced by any Federal or State court or by any person.

(2) ATTEMPT TO OBTAIN A WAIVER.—Any attempt by any person to obtain a waiver from any homeowner of any protection provided by this section or any right of the homeowner under this section shall be treated as a violation of this section.

(3) CONTRACTS NOT IN COMPLIANCE.—Any contract that does not comply with the applicable provisions of this title shall be void and may not be enforceable by any party.

SEC. 2804. WARNINGS TO HOMEOWNERS OF FORECLOSURE RESCUE SCAMS.

(a) IN GENERAL.—If a loan servicer finds that a homeowner has failed to make 2 consecutive payments on a residential mortgage loan and such loan is at risk of being foreclosed upon, the loan servicer shall notify such homeowner of the dangers of fraudulent activities associated with foreclosure.

(b) NOTICE REQUIREMENTS.—Each notice provided under subsection (a) shall—

(1) be in writing;

(2) be included with a mailing of account information;

(3) have the heading ''Notice Required by Federal Law'' in a 14-point boldface type in English and Spanish at the top of such notice; and

(4) contain the following statement in English and Spanish: ''Mortgage foreclosure is a complex process. Some people may approach you about saving your home. You should be careful about any such promises. There are government and nonprofit agencies you may contact for helpful information about the foreclosure process. Contact your

lender immediately at [_____], call the Department of Housing and Urban Development Housing Counseling Line at (800) 569–4287 to find a housing counseling agency certified by the Department to assist you in avoiding foreclosure, or visit the Department's Tips for Avoiding Foreclosure website at http://www.hud.gov/foreclosure for additional assistance.'' (the blank space to be filled in by the loan servicer and successor telephone numbers and Uniform Resource Locators (URLs) for the Department of Housing and Urban Development Housing Counseling Line and Tips for Avoiding Foreclosure website, respectively).

SEC. 2805. CIVIL LIABILITY.

(a) IN GENERAL.—Any foreclosure consultant who fails to comply with any provision of section 2803 or 2804 with respect to any other person shall be liable to such person in an amount equal to the greater of—

(1) the amount of any actual damage sustained by such person as a result of such failure; or

(2) any amount paid by the person to the foreclosure consultant.

(b) CLASS ACTIONS PROHIBITED.—No Federal court may certify a civil action under subsection (a) as a class action under rule 23 of the Federal Rules of Civil Procedure.

SEC. 2806. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of a prohibition described in section 2803 or a failure to comply with any provision of section 2803 or 2804 shall be treated as a violation of a rule defining an unfair or deceptive act or practice described under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) ACTIONS BY THE FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall enforce the provisions of sections 2803 and 2804 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this title.

(b) STATE ACTION FOR VIOLATIONS.—

(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating the provisions of section 2803 or 2804, the State—

(A) may bring an action to enjoin such violation;

(B) may bring an action on behalf of its residents to recover damages for which the person is liable to such residents under section 2805 as a result of the violation; and

(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action.

(2) RIGHTS OF FEDERAL TRADE COMMISSION.—

(A) NOTICE TO COMMISSION.—The State shall serve prior written notice of any civil action under paragraph (1) upon the Commission and provide the Commission with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

(B) INTERVENTION.—The Commission shall have the right—

(i) to intervene in any action referred to in subparagraph (A);

(ii) upon so intervening, to be heard on all matters arising in the action; and

(iii) to file petitions for appeal in such actions.

(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary and other evidence.

(4) LIMITATION.—Whenever the Federal Trade Commission has instituted a civil action for a violation of section 2803 or 2804, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of section 2803 or 2804 that is alleged in that complaint.

SEC. 2807. LIMITATION.

No violation of a prohibition described in section 2803 or a failure to comply with any provision of section 2803 or 2804 shall provide grounds for the halt, delay, or modification of a foreclosure process or proceeding.

SEC. 2808. PREEMPTION.

Nothing in this title affects any provision of State or local law respecting any foreclosure consultant, residential mortgage loan, or residential real property that provides equal or greater protection to homeowners than what is provided under this title.

APPRAISAL STANDARDS

Mr. SHELBY. Madam President, I rise to engage Senator DODD in a colloquy discussing the amendment offered by Senator DOLE concerning appraisal standards. I would like to acknowledge the distinguished Senator from North Carolina for her efforts in crafting this amendment.

In December of last year, Attorney General Cuomo of New York, along with Fannie Mae, Freddie Mac and OFHEO entered into an agreement to create a mortgage appraiser code of conduct. I applaud the work of the attorney general of New York for being proactive in trying to come up with a code of conduct in order to deal with some of the problems in the mortgage appraisal process.

While the ''code of conduct'' moves things in a positive direction, Fannie Mae and Freddie Mac are secondary market players, and the attorney general of New York has authority to deal with the conduct that touches upon the State of New York. In order to fully address the issue and create a unified standard affecting all mortgage originators, there must be a process involving all of the appropriate regulatory authorities including the Federal banking regulators who participate in the congressionally authorized Federal Financial Institutions Examination Counsel, FFIEC, subcommittee on appraisals. This would also provide regulated institutions with adequate opportunity to participate in the process.

The National Bank Act authorizes national banks to engage in mortgage lending, subject to OCC regulation. Since the early 1990s, each of the Federal banking regulators has had standards in place that deal with the conduct of mortgage appraisers. These standards were put in place to address many of the safety and soundness concerns that we are grappling with today. While I recognize the need to update and strengthen these standards, I believe that we need to be mindful of that structure, and rely upon it as part of the effort to reform the appraisal process.

The appraisal is a key component in ensuring sound underwriting both for banks and the consumer. I believe that the key concept of appraisal independence is laudable and although incorporated into Federal banking regulation, perhaps this construct needs to be strengthened.

Our goal should be to ensure that a standard exists that avoids inconsistencies, provides stronger consumer protection, and protects the safety and soundness of lending institutions. I believe that as a wake-up call to the regulators that their standards must be revamped and their enforcement stepped up.

Mr. DODD. I thank my colleague and agree with him on several fronts. The first is that I commend Attorney General Cuomo for his aggressive pursuit in ferreting out fraudulent appraisal practices. Law enforcement has said repeatedly that unscrupulous appraisers are the ''enablers'' of mortgage fraud.

Appraisers, seeking new business, are eager to ''hit the number'' needed to make sure a mortgage is approved. If they fail to give the lenders and brokers the appraisal needed to close the loan, they simply don't get any more referrals from those lenders. As a result, appraisers were inflating their estimates of house value, adding to the frenzy that created the housing bubble.

The guidelines negotiated by Attorney General Cuomo with Fannie and Freddie, and approved by OFHEO, seek to ensure that this kind of pressure cannot be brought to bear on appraisers. They are designed to ensure independence and address the significant evidence of collusion between lenders and appraisers that Mr. Cuomo uncovered.

I understand there is great concern about the process for the reforms the attorney general is demanding. I also understand that some people don't like the new standards which will affect the practices of the lenders that sell their mortgages to Fannie and Freddie.

As a result, I agree with my colleague that the Federal banking agencies have a role in this process. These agencies already have regulations in place that set forth appraisal standards for their lenders. However, the appraisal fraud over the past couple of years, and the attorney general's action, should serve as a wake-up call to the regulators that their standards must be revamped and their enforcement stepped up.

AMENDMENT NO. 4984 WITHDRAWN

Mr. REID. I ask unanimous consent that the Dole amendment be withdrawn.

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

VOTE ON MOTION TO CONCUR

Mr. REID. Madam President, is the matter now the concurrence in the substitute amendment?

The PRESIDING OFFICER. That is correct. The question is on agreeing to the motion to concur in the House amendment, with amendment No. 4983, as amended.

The yeas and nays have been previously ordered.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—79

Akaka	Graham	Nelson (FL)
Alexander	Grassley	Nelson (NE)
Allard	Gregg	Pryor
Baucus	Hagel	Reed
Bayh	Harkin	Reid
Bennett	Hatch	Roberts
Biden	Hutchison	Rockefeller
Bingaman	Inouye	Salazar
Boxer	Isakson	Sanders
Brown	Johnson	Schumer
Cantwell	Kerry	Sessions
Cardin	Klobuchar	Shelby
Carper	Kohl	Smith
Casey	Landrieu	Snowe
Cochran	Lautenberg	Specter
Coleman	Leahy	Stabenow
Collins	Levin	Stevens
Conrad	Lieberman	Sununu
Corker	Lincoln	Tester
Craig	Lugar	Voinovich
Dodd	Martinez	Warner
Dole	McCaskill	Webb
Domenici	McConnell	Whitehouse
Dorgan	Menendez	Wicker
Durbin	Mikulski	Wyden
Feingold	Murkowski	
Feinstein	Murray	

NAYS—16

Barrasso	Coburn	Inhofe
Bond	Cornyn	Kyl
Brownback	Crapo	Thune
Bunning	DeMint	Vitter
Burr	Ensign	
Chambliss	Enzi	

NOT VOTING—5

Byrd	Kennedy	Obama
Clinton	McCain	

The motion was agreed to.

FISA AMENDMENTS ACT OF 2008—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

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, hereby move to bring to a close debate on the motion to proceed to Calendar No. 827, H.R. 6304, the FISA Amendments Act of 2008.

Sheldon Whitehouse, Patty Murray, Max Baucus, Tim Johnson, Ken Salazar, Barbara A. Mikulski, John D. Rockefeller, IV, Herb Kohl, Robert P. Casey, Jr., Daniel K. Inouye, Mary Landrieu, Blanche L. Lincoln, Mark L. Pryor, Dianne Feinstein, Thomas R. Carper, Joseph Lieberman, Claire McCaskill.

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 proceed to H.R. 6304, the FISA Amendments Act of 2008, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The yeas and nays resulted—yeas 80, nays 15, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—80

Akaka	Domenici	Murkowski
Alexander	Dorgan	Murray
Allard	Ensign	Nelson (FL)
Barrasso	Enzi	Nelson (NE)
Baucus	Feinstein	Pryor
Bayh	Graham	Reed
Bennett	Grassley	Reid
Bingaman	Gregg	Roberts
Bond	Hagel	Rockefeller
Brownback	Hatch	Salazar
Bunning	Hutchison	Sessions
Burr	Inhofe	Shelby
Cardin	Inouye	Smith
Carper	Isakson	Snowe
Casey	Johnson	Specter
Chambliss	Klobuchar	Stabenow
Coburn	Kohl	Stevens
Cochran	Kyl	Sununu
Coleman	Landrieu	Tester
Collins	Levin	Thune
Conrad	Lieberman	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Craig	Martinez	Webb
Crapo	McCaskill	Whitehouse
DeMint	McConnell	Wicker
Dole	Mikulski	

NAYS—15

Biden	Durbin	Leahy
Boxer	Feingold	Menendez
Brown	Harkin	Sanders
Cantwell	Kerry	Schumer
Dodd	Lautenberg	Wyden

NOT VOTING—5

Byrd	Kennedy	Obama
Clinton	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 80, the nays are 15. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader is recognized.

UNANIMOUS CONSENT REQUEST—H.R. 3221

Mr. REID. Madam President, I ask unanimous consent that the Senate concur in the amendments of the House—this is on the housing bill—striking titles VI through XI to the amendment of the Senate; and finally that the Senate then disagree to the amendments of the House adding a new title and inserting a new section to the amendment of the Senate to H.R. 3221, notwithstanding rule XXII; further that a managers' amendment which has been cleared by the managers and the leaders also be in order.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. Madam President, I will object. I have been attempting, with the Senator in the chair right now, to attach the Clean Energy Tax Stimulus amendment to the housing bill and get a vote on it. This is an amendment that passed on the housing bill a couple months ago by a vote of 88 to 8 in a bipartisan fashion in the Senate.

People say: What does this have to do with housing? Well, it has several things to do with housing. There is energy efficiency built in for new home construction. If somebody wants to upgrade their home with renewable energy products, they can do that with the help of tax credits in this amendment. It is a good amendment because this country is facing an energy crisis and gasoline prices are too high; home heating oil is too high; and natural gas has gone up by 70 percent. We need to have more renewable energy in the United States. All we have to do is have a vote on this amendment, and we could proceed with the housing bill.

Mr. DURBIN. Will the Senator yield for a question?

Mr. ENSIGN. In a moment. I would say in closing that people have said—we can't do this. The House of Representatives would object because it isn't ''paid for.'' Well, there is $2.4 billion in unoffset tax provisions included in the Dodd/Shelby amendment and a large amount of this does not even relate to housing. Why should the House of Representatives accept $2.4 billion worth in tax incentives not paid for and object to our clean energy tax provisions at the same time? That is an example of why there is inconsistency in objecting to our amendment being voted on.

I yield for a question.

Mr. DURBIN. Madam President, I would like to ask, through the Chair, the Senator from Nevada if he could tell me the name of the State that has had 17 consecutive months leading the Nation in foreclosures.

Mr. ENSIGN. Madam President, there is no question that the whole country is facing a housing crisis and it is not just housing; it actually is leading to a liquidity problem, and my State like others has experienced difficulties. I wish to solve this problem, and improve this bill with the Clean Energy Tax Stimulus amendment——

Mr. REID. Madam President, regular order.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Madam President, I have been very patient while my dear friend, the junior Senator from Nevada, has talked about this. Here is the situation in which we find ourselves. Everyone knows we have an extenders package. I have a letter on my desk that has been spread on the RECORD previously—218 House Members have signed it—saying the House will not accept anything that is not paid for on the extenders. We have a letter that is now also a part of the RECORD, more than 400 companies, most of them Fortune 400 companies, say it is very important to pass the extenders legislation paid for. We also had a statement in The Hill newspaper yesterday, where the National Association of Manufacturers said: Why can't they pass this bill? It is very important to pass the extenders. It is the most important thing the manufacturers need in the country.

We have a situation where there was an agreement made on this bill, the housing bill. The agreement was that they would be related to housing. With all due respect, everyone knows the matter relating to the extenders that my dear friend from Nevada talks about has—you have to stretch a lot to have it related to housing. Why would we want to send something to the House and have them send it back to us? We have a situation on the housing bill that Senator GRASSLEY and Senator BAUCUS are going to take care of—the pay-fors. That is all part of the deal, and everyone knows that.

This is a situation where Senator SHELBY and Senator DODD have worked very hard, and not only have they been working with the House, but they have been working with the White House on this housing bill.

Let's look at where we are. The Senate has turned this week to a number of issues. We have had four main bills: Housing, FISA—the Foreign Intelligence Surveillance Act—Medicare fix, which is important to do; and the supplemental appropriations bill. As of this minute, we haven't passed any of those because there have been continued objections from the minority.

Now, there is no need to whip out a Velcro chart about the number of filibusters we have had, but that is the reason we are in the position we are in today, because we have this great big funnel of legislation that needs to get done and now we have the little spout and that spout is the Fourth of July and it is hard to stuff everything into that. So we have a situation now where there is no reason why housing, the Medicare fix, the supplemental appropriations bill can't be passed in the next couple days.

We have all talked about FISA. I voted on the motion to proceed, not because I like the bill, but I think it is very important that there be an opportunity to offer amendments on it. Senator BOND and Senator ROCKEFELLER recognize that and know they would also feel it appropriate to have amendments on this legislation, but right now it appears we are not going to have that opportunity. FISA enjoys support from both sides of the aisle. It, too, could be easily dealt with before the Fourth of July recess. All these bills are critical to the health, safety, and well-being of the American people.

With thousands of American families losing their homes every day—8,500 new foreclosures every day—and millions more facing the shockwaves of abandoned properties and falling equity—and sometimes rapidly falling equity—it is important we act quickly. This housing legislation raises limits on Federal home loans; it creates a privately funded program to help distressed homeowners; it modernizes the Federal Housing Authority to keep pace with the current housing conditions; and it provides foreclosure counseling moneys to families in need.

This housing legislation enjoys overwhelming bipartisan support. There is no reason we shouldn't pass this legislation.

On FISA, I recognize that Members of the House and Senate have worked hard for 3 months to come up with these improvements. Some of my Democratic colleagues will support a FISA compromise. I respect their decision. Even though I may disagree with the majority of the Senate, I have an obligation, as I said last night, to do everything I can to move this forward. We should be able to do that this week.

The Medicare bill, also known as the doctors' fix, passed by a stunning 355-to-59 vote in the House of Representatives—355 to 59. Republican leaders in the House openly supported this legislation or they wouldn't have gotten a vote such as that. This legislation will both help Medicare beneficiaries and head off the looming cuts facing doctors in many different ways. This bill was very similar to a bill drafted by Senator BAUCUS and supported by every Senate Democrat and nine Republicans in the Senate earlier this month. It represents the only chance this body has to head off cuts to doctors before they take effect at the end of the month. There is no reason we can't pass the Medicare doctors' fix this week.

Who supports this legislation? AARP, the American Medical Association, the American Cancer Society, the American Hospital Association, the National Committee to Preserve Social Security, the National Council on Aging, and dozens more—dozens more.

I ask unanimous consent that a full list of the scores of other organizations be printed in the RECORD that support this Medicare fix—fixing it now. It has to be done before the end of the month.

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

Alliance for Retired Americans, Alzheimer's Association, American Academy of Audiology, American Academy of Dermatology, American Academy of Otolaryngology, American Academy of Ophthalmology, American Association for Geriatric Psychiatry, American Association for Homecare, American Association of Nurse Anesthetists, American College of Cardiology, American College of Physicians, American College of Radiology, American College of Osteopathic Internists, American College of Surgeons, American Counseling Association, American Clinical Laboratory Association, American Federation of State, County and Municipal Employees, American Heart Association/American Stroke Association, American Hospital Association, American Medical Association.

American Mental Health Counselors Association, American Optometric Association, American Psychological Association, American Society of Anesthesiologists, American Society of Plastic Surgeons, Association for Community Affiliated Plans, American Osteopathic Association, California Medical Association, Center for Medicare Advocacy, Clinical Social Work Association, Federation of American Hospitals, Food Marketing Institute, Kidney Care Partners, Leadership Council of Aging Organizations, Medical Group Management Association, Medicare Rights Center, Mental Health America, National Association of Anorexia Nervosa and Associated Disorders, National Association of Chain Drug Stores, and National Association of State Mental Health Program Directors.

National Committee to Preserve Social Security and Medicare, National Community Pharmacists Association, National Council on Aging, National Rural Health Association, Society of Gynecologic Oncologists, Society of Hospital Medicine and Suicide Prevention Action Network USA (SPAN USA).

Mr. REID. Madam President, it is legislation that every State in the Union is calling us about, their Governors and other representatives, to please take care of this. That is what we need to do. Are we doing this to take care of the doctors? Partially, yes, but the other reason we are doing it is we are doing it to preserve Medicare. If we do not do this, there will be more doctors who drop out of taking care of Medicare patients.

What does that mean? It also means there will be other people who are reimbursed by insurance companies and other health care providers who base their reimbursement on what Medicare pays. So we have to do this fix. It is not only to take care of the doctors, it is to take care of patients and Americans from one end of this country to the other.

Finally, we have a supplemental appropriations bill. I would hope we could pass that before the Fourth of July recess. It is an emergency supplemental. We know it funds the war fighting. No matter how people feel about the money that has gone to pay for this war, costing us in Iraq alone $5,000 every second, I would hope everyone understands we are not going to vote on the war funding in this measure that is before us now. But we have other things we have to vote on or the war funding would not come forward, and that is important issues such as the GI bill of rights and unemployment

compensation extension which States are drastically in need of.

It does other good things. There is money in here as a result of the floods that have taken place. That is important. There are Medicaid fixes. Out of the seven regulations that are causing a problem with every Governor in America, six of them will be repealed by this legislation. So there is no reason that we can't do this legislation.

I have said repeatedly we can pass all four of these bills this week. We can do them tomorrow, as a matter of fact. But as with everything else we try to accomplish around here in a closely divided Senate, passing them will require the cooperation of Members from both sides of the aisle.

The filibuster chart is now up to 78. Of course, this is an alltime record for obstructionism. I have said our Republican colleagues, on occasion, have acted Orwellian this year; they say one thing and do another. I guess today is an appropriate day to say this because it is George Orwell's birthday today. He would be 105 today.

So I would hope everyone understands there will be no going home tomorrow unless we complete the things we are obligated to the American people to complete. Now, some say, well, that may mean we are going to have to be here Saturday. Yes, it may mean we have to be here Saturday because that is the way it is, and if we can't complete our work by Saturday, then we can continue our work. It wouldn't be the first time in the history of this country that important legislation was worked on during a holiday. Now, the Fourth of July doesn't come until next Friday or Saturday, a week from the day after tomorrow. So we may have to work here. Everyone should understand that. Everyone has obligations. I do. I don't get to go home as much as a lot of people. I would love to be able to go home on Friday, but we may not be able to. We have to, in my opinion, complete the supplemental appropriations. That is extremely important. We have to complete the Medicare legislation before we go. If we can complete FISA, I am not going to stand in the way of that. I think we should do that too. It appears now, realistically, with this objection to the housing bill, it appears very clear to me that is going to take more time, and we will not be able to do it by the day after tomorrow, but we are going to complete it. We have gone too far to do that. I tell all those people who are objecting to our completing this housing legislation: We will complete it. It may not be tomorrow, it may not be Friday, it may have to wait until the first week we get back. I understand the procedural aspects of that. It could require two more cloture votes, but two more cloture votes would only bring us to 80. We have worked through more difficult things than that. We have a relatively short work period in July, and it is guaranteed that we will do—we will complete the work on the housing bill the first week we get back.

So that is the best I can do. I am not upset with anyone. It has been an interesting day, but it is a day that focuses attention on the work we need to do. I haven't even mentioned the FAA extension. We have to do that some way. We tried to do that, and that was objected to. We have this global AIDS bill the President wants to do. I had a good conversation with Senator ENZI a few minutes ago, and he said he had three people who were objecting to that. He has taken care of two of them today. He is going to deal with the other one tomorrow. I hope, in fact, that is the case. So there is a lot of work we need to do, and I hope we can do it. But everyone should understand we are not walking out of here at 2 o'clock tomorrow. If this means we have to stay until after midnight to file cloture on various things, we will do that. We have work we have to do for the American people.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, let me brighten our day and lift the mood of my good friend, the majority leader. I think by any standard this is going to be a week of considerable bipartisan accomplishment for the American people. We have a great likelihood of completing the supplemental. As everyone knows, the war portion of the supplemental, we don't even have to vote on again. The only thing we will be voting on, again, on the supplemental are the domestic parts of it that are widely supported on both sides of the aisle.

We all agree we need to do the so-called docs' fix. There is some difference of opinion about exactly how to craft that. Senator BAUCUS and Senator GRASSLEY have a history of being able to come together and work these things out in a way that makes sense for both sides.

The FISA bill enjoys almost, I assume, unanimous support on this side of the aisle and more than half the votes on the other side of the aisle. There is no reason we would not get there on that.

As the majority leader has pointed out, at some point along the way, the cobwebs and trip wires and other problems the housing bill has run into will be circumvented by the majority and we will get to final passage on a piece of legislation that the vast majority of people on both sides of the aisle think is important.

So I finish today with optimism about the chances of considerable accomplishment for the American people before the week is out.

I yield the floor.

Mr. REID. Mr. President, it is my understanding that the business before the Senate is the postcloture time on the FISA legislation; is that correct?

The PRESIDING OFFICER (Mr. CASEY). Yes, we are on the motion to proceed to H.R. 6304.

Mr. REID. Yes, that is the FISA legislation.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, briefly, I want to thank our colleagues. I thank the majority leader for his tremendous help in getting us this far on the housing bill. We have worked together, and we would not have been this far without the cooperation of the minority leader as well. So I thank Senator MCCONNELL for that. I am grateful for my colleagues to let us get cloture. Before we leave here—and the Presiding Officer knows how important this legislation is to our States—if we can get this done, I cannot think of a better message to send to the country than having Democrats and Republicans come together to make a difference to thousands of constituents who, over the next week and a half, will be in foreclosure and in danger of losing their homes.

I am grateful for the vote we just had on the Dodd-Shelby substitute. There are other hurdles to go because of the way this matter was sent to us. Any individual Senator can drag this out further. Given the overwhelming vote we have had, it seems to me it would be in our interest to try to get to the other amendments that remain and make this bill as supportive as we can in recognition of what the other body has done, with the hopes that the President might even have this on his desk for signature while we are back in our States during the Independence Day holiday. I think we can do it if we really want to. It is not that much of a difference that remains. As long as one or two individuals insist that we go through all of the remaining procedural hoops, they can delay the outcome. The outcome will happen. Unfortunately, their delays will cause others who might otherwise have been helped by this bill to possibly lose their homes. I think that is tragic indeed.

I hope the leadership will prevail upon those Senators to allow us to continue the amendment process, get through the hurdles, and complete work on this bill before we leave.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for a few minutes as in morning business.

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

CORPORATE RESPONSIBILITY IN IOWA

Mr. GRASSLEY. Mr. President, I want to address an issue of corporate responsibility, particularly as it relates to my hometown of New Hartford, IA, and the flood that recently took place there, and whether a large chain

of convenient stores that is headquartered across Wisconsin is going to take the corporate responsibility of continuing to serve a small town that has been devastated by a flood.

It has been a tough and challenging time for Iowans over the past few weeks. I have come to the floor on a few occasions already to update my colleagues on the natural disasters that have hit Iowa so hard.

Tornadoes and floods have caused economic and emotional toil and pain and have, sadly, taken 24 lives across the Midwest.

Just a mile from my farm is the town of New Hartford, where I have lived my entire 74 years. It is a modest town of about 650 people. On May 25, the north edge of the town suffered extensive damage from a tornado.

That same tornado destroyed half the town of Parkersburg, IA, just 10 miles west of my hometown of New Hartford, and continued damaging towns over a 43-mile range, including Dunkerton and Hazleton, as that tornado traveled east.

Then came the floods. The town and residents of New Hartford were devastated by the flood waters of what we call Beaver Creek. Much of the town's homes and businesses suffered damages from the floods.

But Iowans are resilient people. The residents and the entire community are pulling together to help their neighbors get back on their feet.

But one resident is abandoning the people of New Hartford. Kwik Star has announced that the only convenience gas store in town will not be rebuilt. The decision by Kwik Star to not reopen their store is a serious setback for the town of New Hartford.

These folks have endured a tornado and a damaging flood, but they are working to rebuild, pull themselves together, and somehow get their lives back to normal.

But the one gas station and convenience store will not be around to help with that rebuilding. They view the damage to their facility as too great, too daunting to overcome. This news has added another devastation to the residents of the community. We get the story: Well, we will not rebuild in New Hartford. We will put one double the size of that one in Parkersburg, so then all the people in New Hartford can drive 10 miles to get whatever they would get in their local community.

This is a large chain of convenience stores. I am begging for corporate responsibility, to continue to serve the community. And, particularly, don't ditch people when they are most in need.

Well, their decision doesn't sit well with the residents of New Hartford. As you can tell, it doesn't sit well with me.

As the residents are cleaning up their homes, parks, and businesses, Kwik Star has decided to abandon them. Kwik Star is hurting my neighbors and friends emotionally and economically.

If they don't see the value in rebuilding in New Hartford, why should the residents have any hope? These folks are doing everything they can to bring their properties back from this disaster, to rebuild our hometown, and Kwik Star is leaving them high and dry during this time of devastation.

It is not just the emotional pain of their decision that hurts the people of New Hartford, IA; it is also economic because Kwik Star employed 15 people before the flood. Three full-time employees—Deana Ackerson, Brenda Smith, and Barb Harper—have each worked for Kwik Star for many years.

Twelve other employees—Cindy Huberg, John Mulder, John Anderson, Matt Winkelman, Rich Moore, Teresa Peverill, Carol Grooms, Lauri and Roger Palmersheim, Mitch Konken, Pam Hargema, and Heather Hugelucht—depended on Kwik Star for employment as well.

The bottom line is that the residents of New Hartford are clinging to their hope that the town will come back even stronger than before these disasters. They are using that hope to get through this.

But Kwik Star is dashing that hope. Kwik Star is telling them that their town no longer deserves a gas station and convenience store. One flood is all that this big corporation can seem to handle. If you want gas, milk, or bread, you will have to drive 10 miles to get it in a new, refurbished store that is twice as large.

I can tell them that in another town, just 15 miles away, they had a flood, and they had two stores in that town. One of the two stores in Waverly was flooded, but they are going to rebuild that store. I don't understand this. I am working for tax changes, which is the very same thing we did for Katrina in New Orleans, and with the help of Senator BAUCUS and Congressman RANGEL, chairman of the House Ways and Means Committee, we are working to enact tax relief for victims of natural disasters similar to what was done to the victims of the hurricane. I hope this will encourage Kwik Star to stay in New Hartford.

This includes expensing for demolition and cleanup of debris. Another major provision would allow additional depreciation to greatly reduce or eliminate the business tax liability for the current year, including an operating loss carryback, as an example, for 5 years, which ought to be plenty of incentive for these businesses to continue in the communities where they work.

In the case of the floods, we are talking about 250 different communities in eastern Iowa, just as an example; and, in addition, Wisconsin, Illinois, and Indiana—and now it looks as though it is going to cover Missouri as well.

I am pushing these provisions to help businesses such as Kwik Star cope with the cost of damage and rebuilding.

Mr. President, I am here to appeal to this major convenience store and corporation serving the Midwest, the Kwik Star Corporation, and tell them that New Hartford is worthy of a convenience store. Our residents deserve Kwik Star's commitment to the community. They need to know that a company they have depended on and they have done business with for over 20 years will reverse this decision and join them in bringing New Hartford back from disaster.

IOWA FLOODING

Mr. President, I want to take a moment to provide another update on the flooding in Iowa. As you are aware, Iowa is in the middle of a crisis. Across the State, floods have devastated homes, businesses, farms, and communities, and that continues.

I have been traveling back and forth to Iowa to see the catastrophic damage, and I have been anguished to see my fellow Iowans suffering. People are hurting, and it will take a long time and a lot of hard work just to get back to normal.

However, in the midst of this devastation, I have also witnessed incredible examples of the spirit of Iowa. I have seen Iowans come together in communities across the State sandbagging, consoling, sharing, and providing a helping hand to neighbors and strangers alike. This spirit of dedication, a natural inclination to put others before self, is what makes me most proud to call myself an Iowan.

I cannot talk about the spirit of Iowa without talking about the dedication and efforts of our police, fire, emergency medical services, National Guard forces, and the Civil Air Patrol. These first responders are the frontline of defense for all Iowans. These selfless individuals come to the aid of all Iowans, putting duty first to help others defend their homes, livelihoods, and lives. They do this without thinking twice and put others' lives before their own. They have worked tirelessly to build levees, to sandbag, to secure dangerous areas, and to make water rescues. They have suffered loss, just as all Iowans have; but they never waiver and they always continue to come to the aid of others.

For instance, police and fire stations across the flood zone have been damaged or destroyed. News reports have documented how the fire station in Columbus Junction, IA, was under 10 feet of water. Other reports point to devastation of police, fire, and EMS facilities across the State, including the second largest city in our State, Cedar Rapids. Despite this, first responders still continue to provide security and to help communities in distress. Their efforts are nothing short of heroic.

It is not just local police, fire, EMS personnel who are helping out. Law enforcement officers with the Iowa State Patrol and from other agencies across the State have come to the flood zone to lend a helping hand.

Some have come from out of State. For instance, Coast Guard rescue teams based out of St. Louis came to

provide search and rescue. State troopers and police officers from Nebraska and Minnesota have helped the Cedar Rapids Police Department keep the city secure as the floodwaters recede and cleanup begins.

I appreciate the sacrifice and dedication these folks have made to help Iowa in its time of need.

But it does not stop there. The Iowa National Guard has deployed over 4,000 of their members across the State, providing vital manpower to assist local communities. They have used their skills and training to help meet numerous local needs. They have helped with sandbagging, shoring up levees, saving homes and businesses, and they have secured bridges and patrolled levees. They have been assisting local law enforcement with security. They have distributed clean drinking water to communities that have no running water and provided generators to those without power.

The National Guard has also provided air support via helicopters to support the assessment of damage and transportation of vital equipment. The list of needs met by our Iowa Guardsmen goes on and on, and their dedication knows no bounds.

In fact, one Iowa Guardsman, National Guard SPC Curtis L. White, had to change his wedding plans when he was deployed in support of the flood effort. He married his wife Daniele on Thursday, June 19, on the viaduct on the corner of Highway 92 and 2nd Street in Columbus Junction where he had been assisting with the flood operations. I thank him, his new wife, and his fellow Iowa National Guard soldiers and airmen for their sacrifices and compassion for their fellow Iowans.

I also thank those in the Iowa wing of the Civil Air Patrol who flew Senator HARKIN and this Senator around the State to view the impacted areas. The Civil Air Patrol also flew photo missions to examine the extent of flooding. I commend the Civil Air Patrol for their dedication.

Finally, I thank the men and women across the State who are serving in hospitals, emergency rooms, long-term care facilities, community health centers, home health agencies, and hospices. Many of these people lost their homes to flooding, and yet they still showed up at work to do the right thing. They are to be commended for those efforts.

I know these folks were on the frontline working to evacuate patients from places such as Mercy Medical Center in Cedar Rapids as floodwaters rose. When this happened, facilities such as Saint Luke's Hospital in the same city and others nearby jumped up without hesitation to take in these displaced hospital patients.

We cannot forget the hard work and dedication of our health care professionals during this crisis, and as they are on the road to recovery. With people such as these, I have no doubt that facilities such as Mercy Medical Center will be fully operational in no time.

As the floodwaters start to recede and Iowa moves toward rebuilding, the responsibility of public safety will still be on the shoulders of our first responders. These capable men and women who serve in law enforcement, fire departments, EMS, the National Guard, and in hospitals across the State need all the resources we can provide them in this time of need. We have a responsibility to make sure they are equipped for the job and any future natural disasters we have.

That is why I led the Iowa congressional delegation in writing to Federal agencies, such as the Department of Homeland Security and the Department of Justice, asking that deadlines for law enforcement and first responder grant programs be extended for communities impacted by the flooding.

Communities in Iowa should not be penalized from receiving grants because they have not had the time to hurry up and beat a deadline that does not take into consideration such natural disasters. These communities should be given special consideration for applying for grant moneys because of the extensive damage.

Programs such as the Assistance to Firefighters and the Staffing for Adequate Fire and Emergency Response Firefighters can provide vital assistance to fire departments that were impacted by the flooding. These departments may need new equipment, radios, computers, and repairs to their fire stations. These grants can provide that assistance.

Further, programs such as the Edward Byrne Memorial Justice Assistance Program, called Byrne/JAG, as we all know it around here, and the Community Oriented Policing Services, and we refer to that as the COPS Program, can also provide these same types of resources to police departments in need.

Iowans will soon be facing a long process toward rebuilding. It will not be easy. However, I am proud to say that I know Iowans will be helping others to rebuild in the Iowa spirit of hard work and generosity. We in Congress are doing all we can on our end to ensure that first responders in the field have the resources they need.

So I applaud, maybe now a third or fourth time but you cannot do it too many times, these brave men and women who serve their communities and carry on the spirit of Iowa.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each, with the time counting postcloture.

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

RECOGNIZING THE RETIREMENT OF GLORIA HUGHES

Mr. REID. Mr. President, I rise today to recognize and honor Ms. Gloria Hughes for her committed service to Nevada. Ms. Hughes will be retiring on June 30, 2008, after over three decades of service in the Mineral County Assessor's office.

Ms. Hughes began her service in 1973 as a deputy clerk. She then served as deputy assessor, senior deputy assessor, and chief deputy assessor. In 1994, she was elected to her first of four terms as assessor.

As sssessor of Mineral County, Gloria has worked tirelessly to improve the quality and efficiency of her office, never losing heart when she encountered obstacles. For example, Gloria won a 12 year battle to obtain an office vehicle, which helps the staff fulfill their appraisal duties throughout rural Mineral County. Ms. Hughes' realization of this goal and others like it ensured that her office was consistently the best it could be. Indeed, the State department of taxation repeatedly gave the Mineral County Assessor's office perfect marks in every category of methods and procedures of tax assessment.

True to her nature, Ms. Hughes expresses regret that she will not be able to see all of her goals for Mineral County realized, but is optimistic that the dedicated employees she leaves behind will fulfill them when the time is right.

Gloria will be missed by her employees—whose best interests she worked for ceaselessly—and the citizens of Mineral County who were the fortunate beneficiaries of her fervent commitment to her job, her county, and her state.

I am grateful to Ms. Hughes for her service and proud to honor her and her achievements.

RECOGNIZING THE RETIREMENT OF BOB STOLDAL

Mr. REID. Mr President, I rise today to recognize Bob Stoldal, a legend in Nevada news and the Las Vegas community for more than 40 years. Mr. Stoldal's first experience in a news office came in 1960, working for the Las Vegas Review Journal—first as a janitor, then as a typesetter. In the next year he was hired by KLAS radio as a graveyard-shift radio disk jockey, where he was known to his listeners as Bob Free.

Over the past five decades, Mr. Stoldal has worked as a reporter, anchor, news director, and vice president of news for KLAS. He was the first ever general manager of Las Vegas One and held that position for the past 10 years.

Bob's dedication to accuracy in media content and high ethical standards in broadcast journalism have defined his career. He demands journalistic excellence and integrity from himself and those who work for him. Bob's demand for excellence has earned KLAS countless national and regional awards and recognitions.

Besides upping the ante for Nevada journalism, Bob Stoldal has impacted the field on a national level. Mr. Stoldal has been a staunch advocate for cameras in courtrooms and pioneered the charge to allow cameras in southern Nevada's courtrooms, adding a degree of public scrutiny to our legal system.

Mr. Stoldal's dedication to Las Vegas and his community extends far beyond the realm of media. Bob Stoldal has donated countless hours to the public good, working on State and local boards, commissions, and museums. He currently serves as chairman of the Nevada State Museum and Historical Society and the Las Vegas Historic Preservation Commission.

As a member of the Nevada Broadcasting Hall of Fame and the longest serving employee of KLAS, Bob Stoldal is a legend in the field of journalism; his insight, dedication, and integrity will be missed by all. I wish him an enjoyable retirement and all the best in his future endeavors.

HONORING OUR ARMED FORCES

LANCE CORPORAL LAYTON BRADLY CRASS

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of the brave lance corporal from Richmond, IN. Layton Crass, 22 years old, died on June 14, 2008, in Farah Province, Afghanistan, from injuries sustained while his unit was conducting combat operations. He was a member of the U.S. Marine Corps, Golf Company, 2nd Battalion, 7th Marines from Twentynine Palms, CA.

Layton graduated from Richmond High School in 2005. Outgoing and active in school, Layton also loved rollerblading, paintball, and computers. Public service was a family tradition for Layton; his father is a veteran and his brother, Donald, serves in the U.S. Marines, as well. In high school, Layton was part of the Richmond Police Youth Cadet Program and, according to his family, surprised no one when he enlisted in the Marines. It had been his ambition since he was 16 years old.

Before his deployment in Afghanistan, Layton served an 8-month tour in Iraq. Layton never wavered in his commitment to his country or to the Armed Services. His friend, Dustin Gibbs, told a local newspaper that he joined the Marines because of Layton's inspiration. Gibbs had this to say of his comrade: ''He was a true friend and an extremely brave man. He had a huge heart and made quite an impact on my life and my future to come.'' These words illustrate the great influence Layton had on those lucky enough to know him. His memory will live on long past his years through the many lives he touched.

Today, I join Layton's family and friends in mourning his death. Layton will forever be remembered as a son, brother, and friend to many. He is survived by his parents Donald and Lynne Shingledecker Crass; his sister Dusty Nichole Throop and her husband Nicholas; his brother Devin James Crass and his wife Megan Elizabeth; his nephew, Brenton Isaiah Throop; and his grandparents, Mary Ann and Bob Coons, Zeb and Darlene Crass and Virginia Shingledecker.

While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Layton. Today and always, Layton will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Layton's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Layton's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Layton Bradly Crass in the official record of the Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. When I think about this just cause in which we are engaged and the pain that comes with the loss of our heroes, I hope that Layton's family can find comfort in the words of the prophet Isaiah, who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Layton.

SOMALIA

Mr. BROWNBACK. Mr. President, I rise in support of S. Res. 541, adopted on May 21, which is a resolution designed to support humanitarian assistance in Somalia. As you know, Somalia has seen one government after another fail to deliver for the Somali people for the better part of two decades. At the same time, the situation in Somalia and the broader Horn of Africa is of great strategic importance to the United States and of deep concern to me personally, having traveled to the region on several occasions.

I do not think that we can overestimate the scale of the humanitarian challenges facing Somalia. At least a million people were uprooted during fighting between the Transitional Federal Government and Islamic insurgents last year, and their plight has become graver because of record food prices, drought, and hyperinflation. The 250,000 Somalis in a small corridor outside Mogadishu is now considered the largest camp of internally displaced persons in the world.

The goal of the international community has been to support the formation of a viable government of national unity in Somalia to help stabilize the situation on the ground, and this resolution is designed to support this goal. Nevertheless, we should recall that the country recently faced the terrible prospect of rule by Islamic extremists and that without Ethiopia's intervention, the TFG would not have had this opportunity to bring some measure of stability to the country.

For its part, Ethiopia eliminated the threat of a Taliban-like state taking root on its eastern border and scored a major victory in the war on terrorism. And for our part, this accomplishment furthered U.S. interests by helping ensure that the Somali government did not threaten or seek to destabilize its neighbors or provide protection for terrorists that threaten the United States and its allies.

While I support the broad goal of stability for Somalia and a sustainable peace, let me be clear on an important point. No Somali government should include factions with ties to al-Qaida or al-Shabaab.

Both groups seek to undermine the stability of the TFG, which is the internationally recognized government of Somalia, through violence and intimidation. While al-Qaida's status and animosity towards the United States has been clear for a long time, we should also not underestimate the threat that al-Shabaab also poses to stability in Somalia and the entire region. Indeed, Secretary of State Condoleezza Rice designated the group as a foreign terrorist organization and as a specially designated global terrorist on February 29.

In its assessment of the group's activities, the State Department explains the organization scattered leaflets on the streets of Mogadishu warning participants in last year's reconciliation conference that they intended to bomb the conference venue. Al-Shabaab promised to shoot anyone planning to attend the conference and to blow up delegates' cars and hotels. The group has claimed responsibility for shooting deputy district administrators, as well as several bombings and shootings in Mogadishu targeting Ethiopian troops and Somali government officials. In short, terrorist organizations such as al-Qaida and al-Shabaab seek to undermine the hard-fought and tenuous

peace that has been achieved and their influence in Somalia must be curbed.

In addition, while I support the resolution's call for Ethiopia to develop a timeline for the ''responsible'' withdrawal of its troops from Somalia, it is important to emphasize that this resolution does not call for either an immediate withdrawal or a rigid timeline irrespective of the availability of replacement peacekeeping forces. Any such inflexible approach would be counterproductive, undermine the TFG, and threaten the important gains that have already been achieved.

Just as the presence of Ethiopian troops in Somalia derives, in part, from the intra-party Somali conflict, their departure should not occur until African Union or other international troops have arrived to keep the peace secure. To date, unfortunately, only 2,500 of 8,000 pledged AU peacekeepers have arrived. While some have claimed the presence of Ethiopian troops itself is destabilizing, there is no doubt in my mind that the alternative would be far worse.

Lastly, I would be remiss if I did not comment on the impact that Eritrea has had in terms of making the withdrawal of Ethiopian troops more challenging. According to the United Nations, Eritrea is supporting insurgent groups to undermine the TFG. Under these circumstances, not only would it leave a vacuum for the Ethiopian troops to be withdrawn early, but such a withdrawal would be seized upon by Eritrean-backed insurgents to destabilize the situation in Somalia. This is why this resolution calls on Eritrea to play a productive—and not a destructive—role in Somalia.

The United States has a deep and profound interest in securing the peace in Somalia and the broader Horn of Africa. There is no doubt that serious challenges remain. Nevertheless, I look forward to our continuing to work with our friend and ally Ethiopia, as well as the African Union, United Nations, and other countries in the region to secure a brighter future for all those people in Somalia who yearn to live their lives in peace and with the opportunity to provide for their families.

CHANGES TO S. CON. RES. 70

Mr. CONRAD. Mr. President, section 323(d) of S. Con. Res. 70, the 2009 budget resolution, permits the chairman of the Senate Budget Committee to make appropriate adjustments in aggregates, allocations, and other levels assumed in the resolution to reflect the budgetary impact of certain legislation.

I am filing adjustments pursuant to section 323(d) for legislation that Congress cleared prior to the adoption of S. Con. Res. 70 but for which the necessary information to incorporate their budgetary effects was not available at the time the conference report was filed. The revisions are for public law 110–232, the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008, and public law 110–245, the Heroes Earnings Assistance and Relief Tax Act of 2008.

For the information of my colleagues, the combined effect of the adjustments, including accompanying changes in debt service, is to reduce the on-budget deficit assumed in S. Con. Res. 70 by $965 million in 2008, while increasing it by $933 million in 2009 and by roughly $1 billion over the 2009 to 2013 period. On a unified basis, the legislation is expected to lower deficits by $322 million over the 2008 to 2013 period. Because the revisions are being made for legislation that has already cleared Congress, they will neither raise nor lower the amount of room available to Congress under the budgetary aggregates and committee allocations.

I ask unanimous consent to have printed in the RECORD a set of tables which show the revised allocations, aggregates, and other levels for S. Con. Res. 70, the 2009 budget resolution.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009—S. CON. RES. 70; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 323(d)

[In billions of dollars]

Section 101:	
(1)(A) Federal Revenues:	
FY 2008	1,875.400
FY 2009	2,029.644
FY 2010	2,204.668
FY 2011	2,413.246
FY 2012	2,506.023
FY 2013	2,626.530
(1)(B) Change in Federal Revenues:	
FY 2008	−4.000
FY 2009	−67.755
FY 2010	21.270
FY 2011	−14.824
FY 2012	−151.572
FY 2013	−123.689
(2) New Budget Authority:	
FY 2008	2,562.305
FY 2009	2,531.668
FY 2010	2,562.869
FY 2011	2,693.847
FY 2012	2,736.860
FY 2013	2,868.805
(3) Budget Outlays:	
FY 2008	2,464.754
FY 2009	2,566.868
FY 2010	2,621.952
FY 2011	2,712.799
FY 2012	2,722.051
FY 2013	2,860.217
(4) Deficits (On-Budget):	
FY 2008	589.354
FY 2009	537.224
FY 2010	417.284
FY 2011	299.553
FY 2012	216.028
FY 2013	233.687
(5) Debt Subject to Limit:	
FY 2008	9,574.025
FY 2009	10,206.896
FY 2010	10,731.823
FY 2011	11,136.758
FY 2012	11,483.707
FY 2013	11,831.678
(6) Debt Held by the Public:	
FY 2008	5,403.025
FY 2009	5,760.896
FY 2010	5,988.823
FY 2011	6,079.758
FY 2012	6,074.707
FY 2013	6,080.678
Section 102:	
(a) Social Security Revenues:	
FY 2008	666.716
FY 2009	695.932
FY 2010	733.631
FY 2011	772.531
FY 2012	809.862
FY 2013	845.108
(b) Social Security Outlays:	
FY 2008	463.746
FY 2009	493.602
FY 2010	520.149
FY 2011	540.478
FY 2012	566.241
FY 2013	595.535

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009—S. CON. RES. 70; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 323(d)—Continued

[In billions of dollars]

Section 104:	
(18) Net Interest (900):	
FY 2008	
New budget authority	349.344
Outlays	349.344
FY 2009	
New budget authority	334.396
Outlays	334.396
FY 2010	
New budget authority	370.799
Outlays	370.799
FY 2011	
New budget authority	407.907
Outlays	407.907
FY 2012	
New budget authority	433.182
Outlays	433.182
FY 2013	
New budget authority	448.797
Outlays	448.797
(19) Allowances (920):	
FY 2008	
New budget authority	3.476
Outlays	1.125
FY 2009	
New budget authority	−12.223
Outlays	−5.484
FY 2010	
New budget authority	−11.936
Outlays	−9.366
FY 2011	
New budget authority	−12.294
Outlays	−11.756
FY 2012	
New budget authority	−12.683
Outlays	−13.758
FY 2013	
New budget authority	−12.993
Outlays	−13.389

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT BUDGET YEAR TOTAL 2008

(In millions of dollars)

Committee	Direct spending legislation		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations:				
General Purpose Discretionary	1,050,478	1,094,944		
Memo:				
Off-budget	5,260	5,181		
On-budget	1,045,218	1,089,763		
Mandatory	585,962	569,537		
Total	1,636,440	1,664,481		
Agriculture, Nutrition, and Forestry	14,910	15,413	74,287	58,027
Armed Services	119,050	118,842	105	101
Banking, Housing, and Urban Affairs	15,285	1,628	0	0
Commerce, Science, and Transportation	13,964	9,363	1,182	1,126
Energy and Natural Resources	3,850	4,264	62	61
Environment and Public Works	39,658	2,196	0	0
Finance	1,100,859	1,102,857	442,523	442,584
Foreign Relations	15,852	15,819	159	159
Homeland Security and Governmental Affairs	86,027	84,221	10,573	10,573
Judiciary	7,262	7,533	611	610
Health, Education, Labor, and Pensions	9,874	9,745	13,208	13,229
Rules and Administration	70	225	122	121
Intelligence	0	0	263	263
Veterans' Affairs	746	801	42,867	42,683
Indian Affairs	453	451	0	0
Small Business	−333	−333	0	0
Unassigned to Committee	−604,458	−596,472	0	0
Total	2,459,509	2,441,034	585,962	569,537

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT BUDGET YEAR TOTAL 2009

(In millions of dollars)

Committee	Direct spending legislation		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations				
General Purpose Discretionary	1,011,718	1,106,112		
Memo:				
off-budget	5,491	5,418		
on-budget	1,006,227	1,100,694		
Mandatory	621,707	608,653		
Total	1,633,425	1,714,765		
Agriculture, Nutrition, and Forestry	15,688	14,530	76,307	63,526
Armed Services	126,030	125,863	105	100
Banking, Housing, and Urban Affairs	12,680	−1,239	0	0
Commerce, Science, and Transportation	14,432	10,250	1,149	1,145
Energy and Natural Resources	6,041	5,789	62	63
Environmental and Public Works	34,528	2,291	0	0
Finance	1,085,721	1,087,208	473,803	473,788
Foreign Relations	15,966	15,955	149	149
Homeland Security and Governmental Affairs	89,749	87,732	10,599	10,599
Judiciary	9,749	8,414	624	627
Health, Education, Labor and Pensions	9,349	8,088	14,129	14,116
Rules and Administration	69	19	127	127
Intelligence	0	0	279	279
Veterans' Affairs	1,166	1,247	44,374	44,134
Indian Affairs	529	542	0	0
Small Business	0	0	0	0
Unassigned to Committee	−594,692	−586,021	0	0
Total	2,460,430	2,495,433	621,707	608,653

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT 5-YEAR TOTAL: 2009–2013

[In millions of dollars]

Committee	Direct spending legislation		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry	76,466	69,479	387,350	329,869
Armed Services	668,567	667,908	456	458
Banking, Housing, and Urban Affairs	66,961	−10,748	0	0
Commerce, Science, and Transportation	75,918	49,960	6,322	6,294
Energy and Natural Resources	26,349	25,971	302	303
Environment and Public Works	173,099	11,833	0	0
Finance	6,165,556	6,172,365	2,703,905	2,703,728
Foreign Relatons	73,053	73,024	660	660
Homeland Security and Governmental Affairs	484,637	472,579	51,467	51,467
Judiciary	40,735	41,031	3,207	3,241
Health, Education, Labor, and Pensions	62,263	60,084	79,175	78,944
Rules and Administration	341	343	685	685
Intelligence	0	0	1,481	1,481
Veterans' Affairs	5,595	6,208	236,997	235,550
Indian Affairs	2,158	2,216	0	0
Small Business	0	0	0	0

42ND ANNIVERSARY OF THE FREEDOM OF INFORMATION ACT

Mr. LEAHY. Mr. President, on July 4, our Nation will celebrate the 42nd anniversary of the signing of the Freedom of Information Act, FOIA. While we mark this important anniversary, the country also celebrates the enactment earlier this year of the first major reforms to FOIA in over a decade—the OPEN Government Act—which will reinvigorate and strengthen this vital open government law for many years to come.

Now in its fourth decade, the Freedom of Information Act remains an indispensable tool for shedding light on bad policies and Government abuses.

The act has helped to guarantee the public's ''right to know'' for generations of Americans. Today, thanks to the reforms contained in the OPEN Government Act, which was signed into law on December 31, Americans who seek information under FIOA will experience a process that is much more transparent and less burdened by delays than it has been in the past. This is very good news. But there is still much more to be done to ensure that FOIA remains an effective tool for keeping our democracy open and free.

A key component of the OPEN Government Act is the creation of an Office of Government Information Services, OGIS, within the National Archives and Records Administration. The office would mediate FOIA disputes, review agency compliance with FOIA, and house a newly created FOIA ombudsman. Establishing a fully funded OGIS is essential to reversing the troubling trend of the last 7 years towards lax FOIA compliance and excessive Government secrecy.

I am pleased that the Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies—a panel on which I serve—last week rejected the President's budget proposal to move the functions of OGIS to the Department of Justice. I will continue to work very hard to ensure that OGIS is fully funded within the National Archives—as Congress intended—so that this important office has the necessary resources to fully comply with the OPEN Government Act.

There is also more work to be done to further strengthen FOIA. Earlier this year, I was pleased to join with Senator JOHN CORNYN in introducing the OPEN FOIA Act, S. 2746, a bill that requires Congress to clearly and explicitly state its intention to create a statutory exemption to FOIA when it provides for such an exemption in new legislation. While there is a very real need to keep certain Government information secret to ensure the public good and safety, excessive Government secrecy is a constant temptation and the enemy of a vibrant democracy.

The OPEN FOIA Act provides a safeguard against the growing trend towards FOIA exemptions, and would make all FOIA exemptions clear and unambiguous, and vigorously debated, before they are enacted into law. The Senate Judiciary Committee will consider this bill at its business meeting this week, and I urge all members to support this legislation to further restore the public's trust in their Government.

As we reflect upon the celebration of another FOIA anniversary, we in Congress must also reaffirm our commitment to open and transparent government. As I have said many times, open government is not a Democratic issue or a Republican issue. It is an American value and a virtue that all Americans hold dear. It is in this bipartisan spirit that I join Americans from across the political spectrum in celebrating the 42nd anniversary of the birth of FOIA and all that this law has come to symbolize about our vibrant democracy.

HONORING THE RESCUERS OF KEITH KENNEDY

Ms. KLOBUCHAR. Mr. President, I wish to recognize the dedication of all those involved in the safe and miraculous return of Keith Kennedy, an autistic man from Shoreview, MN, who spent this past week alone, without food or shelter, lost in the woods of northwestern Wisconsin.

His safe return has been called a miracle, but this miracle would not have been possible without the commitment of the hundreds of volunteers, law enforcement officers, firefighters and medics who selflessly gave their time and continued to search for Keith, even when all hope seemed lost.

Special recognition must go to Gary Ruiz and Jim Cotroneo, two St. Paul firefighters who found Keith against all odds. Their efforts, and the efforts of their colleagues who joined them in this search, ensured a joyful ending to what could so easily have been another tragedy.

I cannot fail to mention Keith's parents, Bruce and Linda Kennedy, whose spirit of hope was by all accounts an inspiration to those who participated in bringing Keith home safely. Their bravery and the bravery of their son are an inspiration to us all.

I believe this story shows once again the willingness of Minnesotans, and of our friends in Wisconsin, to go beyond what is asked of them to come together as a community and support those in need. My hope is that the actions of all those who gave of themselves so that Keith could return home, will inspire others to do the same.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, earlier this week, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

SENATOR CRAPO, Thank you for the opportunity to tell my story. I am nearly 70 years old and for 40 to 50 years have dreamed of a vacation in Jasper National Park in Canada. This year was to be the year to go. I had a new vehicle, a competent driver to share the driving, and I had the money. Well, I had the money until the price of gas began to rise so sharply. I had to cancel this dream trip. I may never get to Jasper.

My sister and I made weekly trips to Boise for religious purposes. Because of the cost of gas, we had to cut that back to twice a month.

I have a little patch of strawberries that produces more than I can use. I have shared with friends, family and neighbors nearby. There are many who I would love to share with (and they would love to have them), but they live too far to make it worth the trip with the high cost of gas.

My sister and I are on a limited budget (Social Security), and the cost of gas has caused the prices of food and other things we have to buy to skyrocket. We live at least 20 miles from town, one way. It costs over three times for gas to go to town than it used to. There are no buses in our area.

My personal opinion is that the environmentalists should either donate their money to pay for foreign fuel or let us produce that which we have in our own country. I think they are being very selfish, and I wish a bunch of those characters had to live on less than $1,000 per month.

Sincerely,

DELORES, *Melba*.

With the gas prices the way they are, my family has to stay home instead of camping, fishing and other family activities we have done in the past. The grocery stores have had to raise the prices because of the price of fuel. My wife travels 55 miles a day for work in a car that is on its last leg. I cannot replace it because of the money that we are spending in fuel. I never worried about ''filling my tank'' before, but now I cannot fill my tank because of the price of fuel. I feel like my government wants the fuel to keep going up and up. Everybody says that the oil companies are making a fortune, but they make 4 cents a gallon and taxes are 50 cents a gallon. So who is making the money, the oil companies or the government? Please help us by lowering the fuel prices even if we have to rely on the oil in the United States and not buy from the Middle East.

JASON, *Pocatello*.

DEAR SENATOR, I am concerned about your ignorance on why prices not only at the pump but on anything we buy are up. The Federal Reserve is most responsible for this inflation. It is taught in economics 101. The Federal Reserve has inflated our dollar 50 percent in the last 7 years, according to their statistics. That means 7 years ago, if you had $100,000 in the bank, it would only buy half as much today ''say $50,000''. This means if you made $10.00 an hour seven years ago and your wages stayed the same, you only have the buying power of $5.00/hour.

The Federal Reserve inflates our money supply. They will not give the M3 numbers out because there's a conscious effort not to let the public know what they are doing. You must kick the can, do your research on how inflation really works before you even talk about making changes. If you are to fix the problem, go to the Congress and ask them to fire the Federal Reserve.

Sure, energy prices are up, and these big companies are making big profits. The big oil companies are only in the right place at the right time. The Federal Reserve was voted in wrongly Dec 24, 1913. This was when no one could vote against the creation of the

Federal Reserve. The Federal Reserve is responsible for the Great Depression. They are responsible now for our inflation. Please takes steps and ask Congress to remove this private agency and go to gold standard.

KEVIN, *Rathdrum.*

Fortunately, I can live, work, and shop within a 2-mile radius of home. However, we're reluctant to pull our RV down the road, which causes a loss of business for those tourist areas we would have visited.

I believe the best way to reduce gas prices is to increase production—drill off the coasts (like China and Cuba are doing now), and in Alaska; extract oil from coal and shale; and exploit other known resources. A massive effort to build nuclear plants would also be wise. It is time to tell the environmentalists where to ''get off''. The planet is not getting warmer, and certainly not at the hands of man.

SCOTT.

SENATOR CRAPO, Thank you for your time and ears. I am married with three children at home (two girls, ages 15 and 16; and one boy, 10 years old). Ten years ago, my wife and I were receiving government assistance; now we are both college graduates and working in professional positions, yet we still feel the pain at the pump. I can only imagine how hard it is affecting those who are still on government assistance, or those less fortunate without a higher education. I have personally bought relatives gas in the last month, not because they asked but because I knew they needed it.

Our family has felt the crunch with rising fuel prices. Fuel costs have taken away money from other pertinent bills in our household, especially our energy/power bill. Our family has scaled back traveling and fun family activities such as going to Mariners baseball games. After all, baseball is as American as apple pie. I know these aren't priorities in most households, but activities like these are ones which my family enjoys our time together. When you are raising teenagers you really appreciate these times because teens are hard to convince that family time is truly important. My wife and I bought two small import vehicles (4-cylinders) because we saw this fuel crisis coming. Maybe there could be incentives for using energy-efficient vehicles, not specifically imports but fuel-efficient vehicles. We have a large SUV, but we only drive it when we travel or have to transport the entire family.

Please help contain the ever-rising fuel crisis. Families are affected in more ways than we can imagine, especially the poor.

Sincerely,

RICHARD, *Lenore.*

You asked for my story here it is.

As a retired person and gas prices so high, I do not go anywhere. What bothers me more is the profit taking by oil companies, record profit earning 300 percent and over. Now is the time to own stock in oil. Is this not just greed, ripping off of the American public? We have back-up supplies; we have other sources of energy. We have a government that is not doing its job of protecting the people from being taken advantage of. Why are our government officials allowing this to happen? OPEC does control a lot but are they not beholden to us for some of our products? Can we not hold them over the barrel—for some of the product we send them? OK, a head of lettuce $4.00 each? What is happening with this country? All I am seeing is greed.

We have oil in Alaska; we have oil in Texas. Drill more here; supply ourselves. Why are we shipping oil out? Why not keep our oil here so that OPEC can't hold us up at the bank?

Sincerely,

CLAUDIA, *Nampa.*

DEAR SENATOR CRAPO, I am very pleased for the opportunity to say something that will be heard. I bought a nice little 3-bedroom house in Caldwell, thinking the drive would be long, but something I could handle because I have a car that gets decent gas mileage. Well, with the high gas prices, I have left my home in Caldwell and moved to Boise to be able to keep my job and have something left to live on. Of course with the housing market, it is not selling. I know a lot of people like me who are sharing homes with others due to the increase in gas, electricity, and food prices. Right now living in Boise, it is still costing me 150.00 a month for gas, and I live about 15 minutes from work. Living in Caldwell it was three times the amount. That is one whole paycheck for me. I learned to eat noodles and potatoes instead of other things that would be better for me to eat. Can you imagine the people who are living on that who do not have a good job? I go to work, home and church. Now you may think that is not much of a life. I used to go for drives and visit friends, but that is not possible at this time due to the high cost of everything. We in this country know how to cut back and buckle down to do what needs to be done to help, but our government has let things get way out of hand. We as the voting public are supposed to have a say in things and too many have sat back and said nothing. Something must be done. We have far too long been dependent on others for our fuel, when we have the resources right here in this great country. I do not mean to sound negative, but there is nothing left for us to give. It is time those who have been elected begin giving back to those who support them!

I pray someone is listening.

JEANNIE, *Boise.*

The amount of fuel that I use is as minimal as I can get. I do not do anything except drive back and forth to work and to the grocery store on weekends. I do very little, if any, extra driving. I would love to go camping or up in our wonderful mountains to go fishing, but I cannot afford the gas that it would take to do this. I have been trying to find a way to purchase a different automobile that would get better mileage, but if you do not have extra money, it is real hard to try to save. I use one tank of gas a month to do what I do and, at today's price, that costs me $120.00; soon it will be $150.00; then who knows. I understand price increases, but this is ridiculous. We need to have relief now. I do not understand how one group of people can put all of our own oil in such problems by not allowing us to drill for our own gas and oil. This problem stems from green people who have no idea how anyone else lives. We do not now nor will we ever have mass transit that will remove our cars from the highway.

I feel that we need to drill and produce our own oil and gas as much as we can; then we can tell all of these countries that do not like us goodbye, and we can keep our money here to help people in the U.S. that need help.

Thank you very much for the space to vent. I am not sure it will come of anything, but we can hope.

God bless the USA.

RICK.

With fuel prices increasing so rapidly, we aren't travelling as much or planning a vacation. We are making cutbacks in many areas. However, I was recently visiting my parents in Idaho Falls. They are retired and on a limited income, so I have worried a bit about their finances with the rising fuel prices that not only affect transportation but everything. We stopped at a grocery store known to have the lowest prices consistently. As I approached the check out I saw a family and the mom's voice was starting to rise in intensity and volume. She was under a lot of stress. Her children were near and her husband was, too. She was adding up the cost of the meager amount of groceries in their cart and starting to put back basic items. The children and husband looked at her. She said, ''I only have a half tank of gas left. I only have a half tank of gas left,'' she repeated. ''I just filled it up and I only have ½ tank left.'' She turned to her husband and asked him if he had driven her car yesterday. He replied, ''No.'' Tears came to my eyes as I realized what this young, small, responsible family was going through. Tension was mounting, money was very tight, without fuel, how would they get to work? With fuel costing at least double what it recently was, how would they have enough to stretch? I hadn't realized that people were already having to make choices between fuel and food. Many, many Idahoans are independent and hard-working. They do not look for government hand-outs. They are resourceful. They grow gardens, glean fields nearby, cook from scratch and stretch their dollars in many ways. They make things work. But there comes a point when dollars do not stretch farther, salaries aren't increasing as rapidly as expenses, second jobs are scarcer to find. I live in Boise, a city with more transportation options. We are biking more; my husband has the privilege of biking to work. This family did not! Rural areas have few transportation options besides personal vehicles, and the distance to almost anywhere is great.

I believe as we use and develop our own resources in our great country that people will rise to the occasion and find solutions before we run out of fuel. When we encourage personal initiative and do not take a dependency attitude we, the people, can accomplish amazing things.

KARLA, *Boise.*

We must start drilling for domestic oil, start making nuclear power plants and oil refineries. I will not support anyone who does not and will be willing to help support those leaders who do.

JOHN.

My story is not special, but I think it is too common. I am a 55-year-old woman. I am my sole support. I live in Emmett, but there are no jobs there. I work in Boise, a 30-mile drive one way. I do not make a lot of money and, with the mortgage industry the way it is, I cannot afford to move. Homes are not selling in Emmett. I wonder how much higher things are going to go. Soon it will be a choice of food or gas. Which would you choose?

I am disgusted with our government. They do nothing, and I know they do not have to suffer the way we do. I feel our government has forgotten they work for us, not that we are supporting them.

CANDACE, *Emmett.*

DEAR SENATOR CRAPO, I am lucky enough to live within three miles of where I work, so transporting myself has not impacted me as much as most in my community. Where I am hit hard, though, is the cost of the organic and healthy food I buy. Since spending a lot of time trying to get myself healthy and researching about pesticides and about environmental toxins, I had to make the decision to vote with my dollars. I have spent a

much higher percentage on the important organics such as tomatoes, berries, greens, and some other staples that are most chemical-laden in the conventional counterpart. And I am happy to do so to help a growing sector of sustainable farmers. I always felt that, in the long run, this would come back to benefit all as our country turned to more sustainable and nutritious agriculture.

After studying some of the recent documentaries about our food supply, and the big corporate welfare, and how the farm bill works, I realized that, for some reason, our system prefers us eating the 2,000 mile irradiated, grown for shelf life, nutrient void produce. Organic and sustainable farming hasn't really been given the chance in the past, but I do have hope that because of rising fuel costs that maybe our officials will wake up and support locally grown and sold agriculture (at the expense of big agri and big oil). It will be cheaper with less transportation costs, but to get off the ground we need some government intervention that gives incentives for farmers to take the risk. We subsidize all the corn out there to make us obese with its crack of sweeteners and processed puffed foods and to feed more farm animals than we really have business eating, ($79 hamburgers???); why do we not give nutrition a fair shake. Why do we not try to learn some of Europe's successes and shape a healthy community-based food system? So what I can do is look at my plate as half full on this issue; that is how high fuel costs can benefit me most.

Thank you,

RYAN.

The high energy prices are affecting our family negatively. Higher grocery prices. Gas prices were 1.46 when Bush took office. Unfortunately, Senator Crapo's vote to support the war in Iraq is one reason that gas prices are so high.

BRIAN.

I live in Jerome, Idaho, a rural community. We live between Twin Falls and Jerome, my wife works in Twin Falls and I work in Jerome. Since our area is rural and there is not any form of mass transit like in larger cities the high gas prices are killing us. My wife works for Twin Falls school district and they got a 2 percent raise this year and I got a 3 percent raise. The gas prices have taken all of our raises plus much more. We do not take any long drives other than to work. Life has changed in a big way and not to the positive side. The following is an email I received and I did check it out on the internet. Why are we not tapping into this oil field?

1. Ever heard of the Bakken Formation? Google it. I did, and again, blew my mind. The U.S. Geological Service issued a report in April ('08) that only scientists and oilmen/women knew was coming, but man was it big. It was a revised report (hadn't been updated since '95) on how much oil was in this area of the western 2/3 of North Dakota; western South Dakota; and extreme eastern Montana . . . check this out:

''The Bakken is the largest domestic oil discovery since Alaska's Prudhoe Bay, and has the potential to eliminate all American dependence on foreign oil. The Energy Information Administration (EIA) estimates it at 503 billion barrels. Even if just 10% of the oil is recoverable . . . at $107 a barrel, we're looking at a resource base worth more than $5.3 trillion.

'' 'When I first briefed legislators on this, you could practically see their jaws hit the floor. They had no idea,' '' says Terry Johnson, the Montana Legislature's financial analyst.

'' 'This sizable find is now the highest-producing onshore oil field found in the past 56 years,' reports The Pittsburgh Post Gazette. It is a formation known as the Williston Basin, but is more commonly referred to as the 'Bakken.' And it stretches from Northern Montana, through North Dakota and into Canada. For years, U.S. oil exploration has been considered a dead end. Even the 'Big Oil' companies gave up searching for major oil wells decades ago. However, a recent technological breakthrough has opened up the Bakken's massive reserves . . . and we now have access of up to 500 billion barrels. And because this is light, sweet oil, those billions of barrels will cost Americans just $16 per barrel!

''That is enough crude to fully fuel the American economy for 41 years straight.''

2. [And if that didn't throw you on the floor, then this next one should—because it is from two years ago, people!]

''U.S. Oil Discovery—Largest Reserve in the World! Stansberry Report Online—4/20/2006 Hidden 1,000 feet beneath the surface of the Rocky Mountains lies the largest untapped oil reserve in the world is more than 2 trillion barrels. On August 8, 2005 President Bush mandated its extraction.

''They reported this stunning news: We have more oil inside our borders, than all the other proven reserves on earth. Here are the official estimates: 8 times as much oil as Saudi Arabia; 18 times as much oil as Iraq; 21 times as much oil as Kuwait; 22 times as much oil as Iran; 500 times as much oil as Yemen—and it is all right here in the Western United States.''

[How can this be!? How can we not be extracting this!? Because we've not demanded legislation to come out of Washington allowing its extraction; that is why!]

''James Bartis, lead researcher with the study says we've got more oil in this very compact area than the entire Middle East—more than 2 trillion barrels. Untapped. That is more than all the proven oil reserves of crude oil in the world today, reports The Denver Post.

''Do not think 'Big Oil' will drop its price—even with this find? Think again! It is all about the competitive marketplace, and if they can extract it (here) for less, they can afford to sell it for less—and if they do not, others will. It will come down—it has to.'' [Got your attention/ire up yet? Hope so! Now, while you're thinking about it . . . and hopefully P.O'd, do this:

PAT.

SENATOR CRAPO, New drilling of oil reserves will not even reduce the price of gas. All drilling more wells will do is put more money into the hands of the big oil companies. Nuclear costs far too much when accounting for the storage of the waste it generates. It is time for a new approach!

We need incentives for mass transit and electric vehicles. Idaho, in particular has an abundance of renewable energy potential, just waiting to be exploited. Solar and wind development needs to be a priority. It is time to fill our gas tanks from the sun!

Why not take this opportunity to address carbon dioxide generation from vehicles and gas prices at the same time?

My family has been affected by high energy prices just like everyone else, but the solution is not poking our heads in the sand.

Sincerely,

CHRIS, *Boise*.

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1. Get all your fellow Senators to emphasize conservation and to practice what they preach. The 'historic' comment by Vice President Dick Cheney that conservation is a 'personal virtue' came across as an inference that conservation is a wimpy attitude and real cowboys do not do that.

2. Show me that the federal bureaucracy really can reduce the waste of our energy and natural resources. Start with your office and your staff. Hypocrisy is so yesterday!

3. Quit the whining that we must drill in the ANWR. The so-called Naval Reserves established in the 1920s are now being ''developed'' for oil and gas exploitation; an area the size of the State of Indiana.

4. Show us that oil and gas drilling can be done properly. The massive operations in Wyoming are creating a gawd-awful mess.

5. Encourage our nation's truck carriers to pay their drivers by the hour and not by the mile. Then, the drivers will have a decent incentive to drive at the speed limit and conserve fuel.

6. Then, if you dare, encourage the USPS to eliminate Saturday deliveries, and keep those 200,000 residential-delivery jitneys off the road. (Besides, all they do is save up the junk mail for Saturday delivery. When is the last time you received anything important via US mail on a Saturday?)

Thanks for listening,

D.

SENATOR CRAPO, Rather than solicit stories for the purpose of political grandstanding, how about you take a moment to understand the real reason why energy prices are where they are.

High energy (and food) costs can be laid squarely at the feet of the U.S. Congress and President, including you. This is because of what has been done to the U.S. dollar during the Bush/Republican years. Deficit spending and a disastrous war in Iraq have frittered away a budget surplus and progress toward reducing our national debt. Rather than act as the party of fiscal responsibility, the Republican Party has frittered our national financial health away.

Over the last few years, it was plainly obvious what was being done to the dollar from a spendthrift Congress and markets acted accordingly. And, if you believe that your currency is going to become worthless, the only way to preserve your net worth is to own tangible things, particularly commodities. This is what has spurred this massive commodity boom—lack of faith in the dollar. I have been invested in a basket of commodities for over four years now, one of the best investments I have ever made. My decision was based heavily on the irresponsible Congress.

If you have any doubts about this relationship, look no further than those bad unemployment numbers from June 6th. Intuitively, you'd think that lots of unemployed people would cause oil prices to drop on weaker demand. Yet oil had its biggest one day rise in history, starting the minute those unemployment numbers came out. Why? Because bad unemployment numbers puts pressure on the Federal Reserve to hold rates steady or lower them at a time when the Fed wants to raise them before inflation gets any further out of control. This is bad for the dollar; the dollar dropped as well that day.

Let me give you a quick example of the effect the weak dollar has had on gas prices. Let's say the dollar magically went back to par with the Euro, where it used to be not so very long ago. Gasoline would be around $2.70 per gallon! A strong dollar would also pop this balloon of commodity speculation we are seeing and drive down prices even further.

So if you truly want to fix high gasoline prices, it is time to face up to the giant elephant in the room that is the irresponsible fiscal policy of the U.S. Congress and stop this huffing and puffing about drilling on the continental shelf and ANWR. Even a hint of real fiscal responsibility would go a long way toward strengthening the dollar. We cannot drill our way out of this problem, as much as

the oil companies would like to have you believe that. Because of the very same weak dollar, U.S. oil reserves are extremely profitable at this time, so it is no surprise they are pushing hard for expanded drilling. I can't imagine a better scenario for them—an outraged public and production costs that keep dropping as the dollar weakens.

Of course we need to conserve and develop alternative forms of energy, but to ignore the role of the dollar in all this will just mean we continue down this road to disaster we've been on the last few years.

This might not be the story of suffering you're looking for (actually just the opposite in my case). But I think it might be more constructive than an inbox full of moaning and groaning about how much it costs to commute to work from Nampa.

Regards,

STAN, *Boise*.

HMONG DETAINEES IN LAOS

Mr. COLEMAN. Mr. President, I would like to submit for the RECORD a statement given by Mrs. Sheng Xiong, a spokeswoman for her husband Hakit Yang and other families of Hmong-American citizens from St. Paul, MN, that are being detained by the the Lao Peoples Democratic Republic, LPDR, regime. This statement was given by Mrs. Xiong at a congressional forum on Laos on January 31, 2008, organized by the Center for Public Policy Analysis.

I ask unanimous consent that the Statement to which I referred be printed in the RECORD.

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

STATEMENT BY MRS. SHENG XIONG

I want to thank Congressman Dana Rohrabacher, Congressman Frank Wolf, Congressman Patrick Kennedy, Congresswoman Tammy Baldwin and other Members of the U.S. House of Representatives for co-hosting today's U.S. Congressional Forum on Laos in cooperation with Mr. Philip Smith, Executive Director of the Center for Public Policy Analysis, Dr. Jane Hamilton-Merritt, Lao Hmong scholar; Vaughn Vang of the Lao Human Rights Council of Wisconsin and Minnesota; Khamphet Moukdarath of the United League for Democracy in Laos and T. Kumar, Advocacy Director of Amnesty International. I appreciate their leadership on the current human rights crisis in Laos, especially facing the Hmong people, and the serious situation regarding the arrest and imprisonment in Laos of my husband, Hakit Yang, and his two Hmong-American colleagues from St. Paul, Minnesota last year.

The U.S. Government granted Normalized Trade Relations (NTR) to Laos in 2005. Today, it encourages citizens to consider foreign investments in the communist state despite the country's atrocious human rights records and the unjustified arrest, jailing and continued detention of three Hmong-American citizens from St. Paul, Minnesota including my husband Mr. Hakit Yang.

On July 10, 2007, Hakit Yang, Congshineng Yang and Trillion Yuhaison departed the United States for Laos to pursue business investment opportunities. The men were staying at the #5 Guest House in Phousavan, Laos when they were arrested by secret police forces. They were detained in Phonthong Prison and later transferred to an unknown destination. Several unofficial reports suggest they are being detained in the North of Laos near the Vietnam border.

The last phone call and communication was received from Yuhaison on August 26, 2007 at approximately 9:00 am (CST). Yuhaison called Hakit's older brother Xai Yang, and stated that he was calling from a security guard's cell phone and confirmed that all three men had been arrested without warrant. Yuhaison sounded very worried and wanted Xai to contact the U.S. Embassy in Vientiane right away.

A U.S. Embassy staff confirmed with local Lao authorities that three U.S. Citizens were arrested, however, the authorities refused to release any names. According to the U.S. Embassy, the Ministry of Foreign Affairs could not confirm the situation over the phone, but it appeared they knew about the cases.

The U.S. Embassy contacted the Lao government who denied having any record of the men entering their country and any U.S. Citizens being detained or arrested. Later, the Lao government changed their previous denials and admitted that the men did indeed enter Laos, but allegedly claimed that they had allegedly departed Laos via the Lao-Thai Friendship Bridge on August 29, 2007. Despite repeated requests from the U.S. Embassy no departure cards have ever been produced as evidence for their departure. Other documents produced are clearly bogus and fabricated allegedly claiming to support the Lao government's false claims that my husband and the other two departed from Laos to Thailand, which is not factual.

It has been many months since the arrest and disappearance of Hakit Yang, Congshineng Yang and Trillion Yuhaison. To this day, our family has not received any concrete answers from the U.S. Embassy in Laos nor the State Department. I have been in contact with the other men's families and they also have not received any answers.

The U.S. Government and U.S. Embassy have a responsibility to inform U.S. Citizens that there are no real protections in place to safeguard their civil and legal rights. The U.S. Government has failed to properly hold the Laos Government accountable for the disappearance of these U.S. investors.

Hakit, Congshineng, and Trillion represent the first of many U.S. investors and tourists to travel to Laos under the new Normalised Trade Relations agreement but their disappearance clearly proves that no U.S. Citizen is safe in Laos and no U.S. citizen should invest in the current Lao regime until proper protections can be put in place, to safeguard the civil, legal and human rights of all U.S. Citizens traveling to Laos.

I respectfully ask that the U.S. Government and U.S. Embassy in Laos continue to investigate the arrest and disappearance of Hakit, Congshineng, and Trillion and to press the Lao government for humanitarian access to the three U.S. citizens and their unconditional and immediate release.

The Lao government continues to jail my husband and the two other Americans from St. Paul that he was traveling with in clear violation and contempt of international law. Lao and Hmong Americans should not invest in the current regime in Laos, the Lao Peoples Democratic Republic. NTR Trade Status to Laos should be revoked by the U.S. Congress; and, U.S. foreign aid and assistance to the Lao regime should also be cut by the U.S. Congress and U.S. Government completely, including all de-mining funding, until at least such time as my husband Hakit Yang, Congshineng and Trillion, as Hmong-American citizens, are released from prison in Laos and brought home safely to America and their homes and families in St. Paul, Minnesota.

We will not forget and not give up fighting until we have truthful answers and the Lao regime releases Hakit Yang, Congshineng and Trillion. We appeal to the U.S. Congress, the U.S. Government and international community for assistance in pressing the Lao regime to release our family members and restore human rights and freedom to them so that we can be reunited and these American citizens can return home once again from this terrible darkness.

ADDITIONAL STATEMENTS

IN RECOGNITION OF JEANNA HENRY

• Mr. CARPER. Mr. President, today I recognize the outstanding contributions of Jeanna Henry, whose dedication to the Environmental Protection Agency earned her the Glen Witmer Award. Jeanna, noted for her dedication, resourcefulness, and sheer joy in her work, is an excellent example of the quality employees who serve us at the EPA.

The Glen Witmer Award is presented each year to the employee whose service is distinguished by concern for our environment, enthusiasm for environmental programs, a logical approach to problem solving, attention to detail, resourcefulness and initiative, and an ability to interact with people in a manner that fosters cooperation, understanding, and resolution of environmental problems. It is the highest award that may be presented to an employee by the U.S. Environmental Protection Agency.

Jeanna grew up in Delmar, MD—the town too big for one State—and graduated from Salisbury State University in 1996 with a degree in environmental health and minors in biology and chemistry. Following through on a goal she set her freshman year of college, Jeanna went on to work as an environmental scientist at the EPA upon winning a National Network for Environmental Management Studies Fellowship. Currently an enforcement officer at EPA's Waste and Chemical Management Division in Wilmington, DE, she has managed a multitude of hazardous waste and underground storage tank enforcement cases, all with motivation, professionalism, and extraordinary attention to detail.

Beyond her achievements in her field, Jeanna is most noted for her work ethic, exceptional communication skills, and for the passion that she brings to all of her undertakings. New employees often gravitate towards her because despite her heavy workload, she is never too busy to take time out to help others. She has become a mentor for new employees, a role model for her peers, and an absolute joy to her supervisors.

Jeanna is not only an outstanding employee, but a remarkable person, as well. Her lifelong passion for the environment has enabled her to help shape and enrich the lives of many in her field and the lives of those lucky

enough to call her their friend. I rise today to extend my sincere congratulations to Jeanna on her award. She is a remarkable woman as well as a credit and testament to the community that she represents so well.●

REMEMBERING JUSTICE REVIUS ORTIQUE

● Mrs. CLINTON. Mr. President, on June 22, our Nation lost a great judge and lawyer, civil rights champion, and public servant. Justice Revius Ortique, the first African-American justice elected to the Louisiana Supreme Court, has died at 84.

I met Justice Ortique when we served together in the 1970s on the board of the Legal Services Corporation, and much later in his career, Justice Ortique was appointed by my husband to serve as alternate delegate to the United Nations.

Justice Ortique had an illustrious career. In World War II, he served as an officer in the Pacific Theater and after earning his law degree in 1956, set up a legal practice at the vanguard of the civil rights movement. He helped to successfully win equal pay for Black employees in several cases, to integrate State labor unions, and served five terms as president of the Urban League of Greater New Orleans. Justice Ortique not only worked to achieve racial equality but also to achieve racial harmony and served three terms as president of the New Orleans Community Relations Council. He negotiated for the Black community with White civic leaders helping to bring about the peaceful desegregation of lunch counters, bathrooms, and other public facilities in New Orleans before the passage of the landmark Civil Rights Act of 1964 would guarantee these rights.

Justice Ortique was a courtly figure with a mild manner that belied his courage, convictions, and ability to effect change. I am proud to have known him, and my thoughts and prayers are with his wife Miriam, his daughter Rhesa, and all those whose lives were made better because of his leadership.●

125TH ANNIVERSARY OF NEW SALEM, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to honor a community in North Dakota that is celebrating its 125th anniversary. On July 18 through 20, the residents of New Salem, ND, will celebrate their community's history and founding.

New Salem began on an April day in 1882 when young John Christiansen hopped off a westbound freight train. The only sign of civilization he saw were the train tracks behind him and the belongings he brought. Soon after his arrival a Colonization Bureau out of Chicago sent settlers to the area and gave the colony its independence for $600. A church, land office, lumber yard, drugstore, and general store were soon built, and by the end of 1883, the town was ready for great plains living.

Known nationally as the home of the world's largest Holstein cow, New Salem is a community filled with pride and energy. ''Salem Sue'' stands 38 feet high, weighs over 6 tons, and was erected by the New Salem Lions Club in 1974 to honor the dairymen of North Dakota. New Salem also has a nine-hole golf course, public swimming pool, and numerous parks to entertain residents and tourists.

To celebrate its 125th anniversary, the community of New Salem is organizing a celebration that will include a parade, demolition derby, mixed golf scramble, pitchfork fondue, and numerous outdoor activities. A street dance down New Salem's Main Street will also be held. It promises to be a wonderful event.

Mr. President, I ask the U.S. Senate to join me in congratulating New Salem, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring New Salem and all the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as New Salem that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

New Salem has a proud past and a bright future.●

125TH ANNIVERSARY OF RICHARDTON, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased today to recognize a community in North Dakota that will be celebrating its 125th anniversary. On July 11 through 13, the residents of Richardton will gather to celebrate their community's history and founding.

Richardton is located in Stark County in the southwest part of the State. Oscar L. Richard named the town in 1882 after his relative, C.B. Richard, who was an agent for the Hamburg-American Steamship Co., which promoted German-Russian settlement in this area. The post office was established a year later by Adolph Norberg. In 1906, the village was incorporated, and Richardton was officially recognized as a city in 1935.

Richardton has a prominent Roman Catholic monastery, which was founded by Bishop Vincent DePaul Wehrle in 1899. Vincent was the first Abbot of the monastery, which was named St. Mary's Priory, from 1903–1910. Under his leadership, the great twin-tower cathedral was built in 1906.

St. Mary's faced significant challenges after its completion in 1910 which eventually led to its closure. Abbot Alcuin Deutsch of St. John's Abbey in Minnesota wanted to revive the Richardton community because it was still struggling financially. In 1926, Abbot Deutsch and other monks around North Dakota helped reopen the monastery with the name Assumption Abbey. Assumption Abbey remains in operation today.

Richardton's attractions also include a golf course, bed and breakfasts, restaurants, motels and much more. Residents of Richardton take great pride in their community. To celebrate their 125th centennial anniversary, the community will be holding a 5k walk/run, a parade, games, an antique car show, a Rough Rider Rodeo, a dance, and a fireworks show.

Mr. President, I ask the U.S. Senate to join me in congratulating Richardton, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Richardton and all other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Richardton that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Richardton has a proud past and a bright future.●

HONORING KENWAY CORPORATION

● Ms. SNOWE. Mr. President, I wish today to recognize the Kenway Corporation, an outstanding small business from my home State of Maine that recently earned the distinguished recognition of Manufacturer of the Year by the Maine Manufacturing Extension Partnership, or Maine MEP. A fiberglass manufacturer located in Maine's capital city of Augusta, the Kenway Corporation has for over 60 years been known for its high-quality products. The MEP's Manufacturer of the Year award is presented every year to a company that has achieved world-class status and has applied the best manufacturing practices necessary to succeed in the marketplace.

The Kenway Corporation formally began operations as Kenway Boats in 1947 in the rural community of Palermo, ME. Originally focused on building wooden crafts, the firm switched its concentration to composites in the 1960s and has since grown into a tremendously successful manufacturing company. Today, Kenway manufactures corrosion-resistant fiberglass for a variety of industries, including marine, pulp and paper, and power. Notably, in 1991, Kenway moved its venture to Augusta and increased its manufacturing facilities to more than 10,000 square feet. The firm is expanding again this year by doubling its current size while consolidating its operations. Additionally, since 2003, the company has increased its staff more than two-fold, to nearly 80 employees, and Kenway is seeking to provide even more jobs in the near future. Kenway has attracted a loyal customer base ranging from coast to coast and even to Puerto Rico.

The Kenway Corporation's products are highly advanced and heavily sought after by numerous companies. Kenway

makes process piping that is used in petrochemical and wastewater treatment facilities, as well as in power plants and paper mills. In addition, the firm manufactures an assortment of custom designed dampers, tanks, scrubbers, shower pipes, and railcar drip pans to prevent corrosion and chemical leakage. Kenway's employees engage in an array of intensive manufacturing processes, including laminating, vacuum resin transfer molding, and pultrusion.

Since its inception 61 years ago, the Kenway Corporation has wisely taken advantage of tools available to small businesses. In 2007, the Maine Department of Economic and Community Development designated Kenway a Pine Tree Zone business, making it eligible for targeted tax benefits to better compete in today's global economy. The company had previously won a $100,000 grant from the Maine Technology Institute, which allowed Kenway to install sensor systems in its piping to transfer hazardous materials.

Early last year, Kenway returned to its historic roots of shipbuilding by purchasing Maritime Skiff from its retiring Massachusetts owners. Now operating under the name Maritime Marine, the company makes small, fuel-efficient skiffs and family fishing boats with fiberglass decks and hulls. Kenway received a $400,000 community development block grant to properly incorporate Maritime Skiff into its present operations, a transition that has thus far yielded positive results. To generate additional interest in Maritime's line of vessels, the company recently began offering a lifetime no-rot warranty on all of its models.

A powerhouse and leader in fiberglass manufacturing for nearly a half century, the Kenway Corporation's name is synonymous with quality craftsmanship and innovative production. Through intelligent growth and adjusting to economic conditions, Kenway has been successful at staying ahead of the curve and maintaining its pre-eminent position. I commend Ken Priest, company president, and everyone at the Kenway Corporation for their accomplishment in garnering the respected Manufacturer of the Year award from the Maine MEP and wish them well in their continuing endeavors.●

RECOGNIZING SHANE BRYAN

● Mr. THUNE. Mr. President, today I wish to recognize Shane Bryan, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Originally from Oacoma-Chamberlain, SD, Shane is currently a sophomore at the University of South Dakota and is majoring in political science and communication studies. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Shane for all of the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING JORDAN FEIST

● Mr. THUNE. Mr. President, today I wish to recognize Jordan Feist, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Originally from Sioux Falls, SD, Jordan is currently a sophomore at the University of South Dakota and is majoring in political science and philosophy. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Jordan for all of the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING CAMDEN HELDER

● Mr. THUNE. Mr. President, today I wish to recognize Camden Helder, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Originally from De Smet, SD, Camden is currently a senior at South Dakota State University and is majoring in economics and political science. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Camden for all of the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING JONATHON REYNOLDS

● Mr. THUNE. Mr. President, today I wish to recognize Jonathon ''Jonny'' Reynolds, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Originally from Baltic, SD, Jonny recently graduated from the Air Force Academy where he majored in economics. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Jonny for all of the fine work he has done and wish him continued success in the years to come.●

RECOGNIZING KAYLA WOLFF

● Mr. THUNE. Mr. President, today I wish to recognize Kayla Wolff, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Originally from Rapid City, SD, Kayla is currently a junior at the University of Central Arkansas and is majoring in economics and prepharmacy. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Kayla for all of the fine work she has done and wish her continued success in the years to come.●

125TH ANNIVERSARY OF CANOVA, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I wish to recognize Canova, SD. The town of Canova will commemorate the 125th anniversary of its founding with celebrations July 4 to 5, 2008.

Located in Miner County, Canova was founded in 1883 and was named after Italian sculptor Antonio Canova. Since its beginning 125 years ago, the community of Canova has continued to serve as a strong example of South Dakota traditions, especially in its outstanding amateur baseball team, the Canova Gang.

I would like to offer my congratulations to the citizens of Canova on this milestone anniversary and wish them continued prosperity in the years to come.●

125TH ANNIVERSARY OF HOVEN, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I wish to recognize Hoven, SD. The town of Hoven will commemorate the 125th anniversary of its founding with celebrations July 4 to 6, 2008.

Located in Potter County, Hoven was founded in 1883 and was named after a landowner with the last name of Hoven. Since its beginning 125 years ago, the community of Hoven has continued to serve as a strong example of South Dakota values and traditions.

I would like to offer my congratulations to the citizens of Hoven on this milestone anniversary and wish them continued prosperity in the years to come.●

125TH ANNIVERSARY OF WOONSOCKET, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I wish to recognize Woonsocket, SD. The town of Woonsocket will commemorate its 125th anniversary of its founding with celebrations July 3 to 6, 2008.

Located in Sanborn County, Woonsocket was founded in 1883 and was named after Woonsocket, RI. Since its beginning 125 years ago, the community of Woonsocket has continued to serve as a strong example of South Dakota values and traditions.

I would like to offer my congratulations to the citizens of Woonsocket on this milestone anniversary and wish them continued prosperity in the years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:47 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2818. An act to amend title 38, United States Code, to provide for the establishment of epilepsy center of excellence in the Veterans Health Administration of the Department of Veterans Affairs.

H.R. 4289. An act to name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the ''Euripides Rubio Department of Veterans Affairs Outpatient Clinic''.

H.R. 5687. An act to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes.

H.R. 6307. An act to amend parts B and E of title IV of the Social Security Act to assist children in foster care in developing or maintaining connections to family, community, support, health care, and school, and for other purposes.

H.R. 6312. An act to advance credit union efforts to promote economic growth, modify credit union regulatory standards and reduce burdens, to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

At 6:40 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3180. An act to temporarily extend the programs under the Higher Education Act of 1965.

MEASURES REFERRED

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

H.R. 4289. An act to name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the ''Euripides Rubio Department of Veterans Affairs Outpatient Clinic''; to the Committee on Veterans' Affairs.

H.R. 5687. An act to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6307. An act to amend parts B and E of title IV of the Social Security Act to assist children in foster care in developing or maintaining connections to family, community, support, health care, and school, and for other purposes; to the Committee on Finance.

H.R. 6312. An act to advance credit union efforts to promote economic growth, modify credit union regulatory standards and reduce burdens, to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 3186. A bill to provide funding for the Low-Income Home Energy Assistance Program.

H.R. 6331. An act to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2818. To amend title 38, United States Code, to provide for the establishment of epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–401. A resolution adopted by the Council of the City of Tehachapi, California, expressing its support for the original and historic view of the Second Amendment; to the Committee on the Judiciary.

POM–402. A concurrent resolution adopted by the Legislature of the State of Louisiana urging Congress to appropriate the United States Army Corps of Engineers the total amount of funds collected from the Harbor Maintenance Tax; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 127

Whereas, Louisiana, more than most other states, is keenly aware of the importance of maintaining waterway channels clear for navigation with several major rivers, including the Mississippi River, flowing through the state and is also keenly aware that dredging navigation channels and letting the dredge material merely flow out to the Gulf of Mexico is, in essence, letting Louisiana merely flow out to the Gulf of Mexico; and

Whereas, if the total amount of funds collected from the Harbor Maintenance Tax is appropriated to the Corps of Engineers, those funds could be used to help fund the dredging necessary to maintain the navigation channels open for commerce; and

Whereas, an ancillary use of dredging activity that has become essential to the preservation of Louisiana's coastline is beneficial use of dredge material whereby the material dredged from waterways is then taken and ''planted'' where it can be used to preserve and grow land in the coastal areas where Louisiana is losing land at an alarming rate; and

Whereas, coastal Louisiana was formed by the depositional processes of the Mississippi River over the past seven thousand five hundred years; and

Whereas, the thick fluvial deposits that comprise the Mississippi River Delta are naturally prone to compaction under their own weight, but if sediment supplies are sufficient, the delta can build and maintain its surfaces as sea level rises; and

Whereas, the land building processes of the Mississippi River have been halted in South Louisiana by a combination of levees which prevent seasonal overbank flooding and sediment deposition, dredged waterways which channel freshwater and sediment to the Gulf of Mexico, and upstream dam construction which prevent sediment from naturally reaching the Louisiana coast; and

Whereas, over fifteen hundred square miles of Louisiana's coastal wetlands and barrier islands have been lost to open water since the early 1930s, and scientists project that another five hundred square miles will be lost by 2050, if current resource management practices continue; and

Whereas, more than one hundred twenty million tons of river sediment that could be used to sustain the Mississippi Delta will be lost to the Gulf of Mexico each year if nothing is done to restore the natural hydrology of the Mississippi River; and

Whereas, prevention of wetland loss in the Mississippi River Deltaic Plain, which comprises most of the southeastern Louisiana coastal zone, is dependent upon restoring flows of fresh water and sediment to the delta; and

Whereas, an international team of scientists convened for the express purpose of advising the state of Louisiana about its coastal land loss problem in 2006 concluded that, ''The most fundamental and essential action needed to achieve a sustainable coast is to reduce, to the greatest extent possible, the amount of Mississippi River sediment and freshwater flowing directly into the deep waters of the Gulf. These valuable resources, which originally built coastal Louisiana, can only benefit the coast if they are redirected to inshore and nearshore waters. This would occur naturally if the river were not artificially maintained for navigation along its present course into deep water''; and

Whereas, fully appropriating to the Corps of Engineers the revenue received from the Harbor Maintenance Tax could provide the funds essential to both dredge rivers for navigation purposes as intended by the imposition of the tax and, to go a step further, as authorized by the tax, to use that dredge material for beneficial uses in restoring and preserving coastal Louisiana. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to appropriate to the United States Army Corps of Engineers the total amount of funds collected from the Harbor Maintenance Tax so that those funds can be used for dredging navigation channels and, where possible, the beneficial use of dredged material to protect, restore, and conserve wetlands along the coast of Louisiana. Be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–403. A resolution adopted by the House of Representatives of the State of South Carolina urging Congress to appoint an independent counsel to investigate unresolved matters pertaining to U.S. personnel unaccounted for from this Nation's wars and

conflicts beginning with World War II; to the Committee on Armed Services.

HOUSE RESOLUTION

Whereas, the Prisoner of War—Missing in Action (POW/MIA) issue has been a national dilemma since the end of World War II; and

Whereas, there is a strong need for an independent investigation into all unresolved matters relating to any United States personnel unaccounted for from the Vietnam War, the Korean War, World War II, the Cold War, the Gulf Wars, and other conflicts including MIAs and POWs; and

Whereas, it is the responsibility and the duty of the United States government to bring home Americans missing in action from these conflicts; and

Whereas, as of July 2005, the Government Accountability Office listed over eighty-eight thousand service men and women unaccounted for from World War II, the Korean War, the Cold War, the Vietnam War, the Gulf Wars, and other conflicts; and

Whereas, American POWs and their missing comrades have demonstrated the true spirit of our nation and should never be forgotten; and

Whereas, the families of these inspiring Americans deserve to know what truly happened to their loved ones; and

Whereas, Americans from every generation have answered the call to duty with dedication and valor. These brave Americans deserve the respect and gratitude of our nation and all efforts should be made to resolve the Prisoner of War-Missing in Action issue in their honor. Now, therefore, be it

Resolved by the House of Representatives, That the members of the South Carolina House of Representatives, by this resolution, urge the United States Congress to appoint an independent counsel to investigate the Prisoner of War-Missing in Action issue regarding unresolved matters pertaining to United States personnel unaccounted for from this nation's wars and conflicts beginning with World War II. Be it further

Resolved, That a copy of this resolution be forwarded to the President of the United States, the United States Senate and House of Representatives, and the members of the South Carolina Congressional Delegation.

POM–404. A joint resolution adopted by the Senate of the State of Tennessee urging the adoption of a Veterans Remembered Flag; to the Committee on Armed Services.

SENATE JOINT RESOLUTION, NO. 901

Whereas, there are flags for all branches of the armed services, as well as flags for POWs and MIAs, but there is no flag to honor the millions of former military personnel who have served our nation; and

Whereas, a flag is the symbol of recognition for a group or an ideal; veterans compose a group and certainly represent an ideal, and surely deserve their own symbol; and

Whereas, it is estimated that 20,400,000 veterans have served in our nation's military, comprising a significant portion of our country's population; and

Whereas, a Veterans Remembered Flag would memorialize and honor all past, present, and future veterans and provide an enduring symbol to support tomorrow's veterans today; and

Whereas, displaying and flying this flag would honor the lives of millions of men and women who have served our country in times of war, peace, and national crisis; and

Whereas, the symbolism of this unique flag's design would be all-inclusive and would pay respect to the history of our nation, to all branches of the military, and would serve to honor those who have served or died in the service of our nation; and

Whereas, in memorializing America's veterans, the Veterans Remembered Flag includes specific symbolism and should be designed in substantially the following form:

(a) It depicts the founding of our nation through the thirteen stars that emanate from the hoist of the flag and march to the large red star, representing our nation and the five branches of our country's military that defend her: the Army, Navy, Air Force, Marines, and Coast Guard.

(b) The white star indicates a veteran's dedication to service.

(c) The blue star honors all men and women who have ever served in our country's military.

(d) The gold star memorializes those who fell defending our nation.

(e) The blue stripe which bears the title of the flag honors the loyalty of veterans to our nation, flag, and government.

(f) The green field represents the hallowed ground where all rest eternally; and

Whereas, the Veterans Remembered Flag would serve to honor all veterans who have served in our country's Armed Forces; now, therefore, be it

Resolved by the senate of the One Hundred Fifth General Assembly of the State of Tennessee, the House of Representatives Concurring, That this General Assembly hereby urges the Congress of the United States to act expeditiously to adopt a Veterans Remembered Flag as described herein. Be it further

Resolved, That an enrolled copy of this resolution be transmitted to the President of the United States, the Speaker and the Clerk of the U.S. House of Representatives, the President and the Secretary of the U.S. Senate, and each member of the Tennessee Congressional Delegation.

POM–405. A resolution adopted by the California State Lands Commission addressing the incidental taking of marine animals by once-through cooling power plants; to the Committee on Energy and Natural Resources.

RESOLUTION

Whereas, a cornerstone of the value and uniqueness of California's 1,100 mile coastline and adjacent coastal waters is the richness and diversity of marine life, including fish, marine mammals, birds and plants; and

Whereas, the California State Lands Commission has jurisdiction over the state-owned tide and submerged lands from the shoreline out three nautical miles into the Pacific Ocean, as well as the lands underlying California's bays, and navigable lakes and rivers; and

Whereas, the Commission is charged with managing these lands pursuant to the Public Trust Doctrine, a common law precept that requires these lands be protected for public use and needs including commerce, navigation, fisheries, water related recreation and ecological preservation; and

Whereas, the Commission has aggressively sought correction of adverse impacts on the biological productivity of its lands including litigation over contamination off the Palos Verdes Peninsula and at Iron Mountain, the adoption of best management practices for marinas, and litigation to restore flows to the Owens River; and

Whereas, California has a significant number of power plants that use once-through cooling (OTC), the majority of which are located on bays and estuaries where sensitive fish nurseries for many important species are located; and

Whereas, the environmental costs of persistent entrainment and impingement from once-through cooling to marine and coastal life and ecosystems are high; and

Whereas, OTC harms the environment by killing large numbers of wildlife, including fish, marine mammals, and sea turtles, as well as larvae and eggs, as they are drawn through fish screens and other parts of the power plant cooling system; and

Whereas, regulations adopted under Section 316(b) of the federal Clean Water Act recognize the adverse impacts of OTC by effectively prohibiting new power plants from using such systems and requiring existing power plants to reduce OTC impacts; and

Whereas, the Second Circuit U.S. Court of Appeals ruled that restoration measures do not minimize the impacts of once-through cooling and cannot be used to comply with Clean Water section 316(b); and

Whereas, the California State Water Resources Control Board is currently developing a state policy to implement Clean Water Act Section 316(b), which, in the draft released for public comment, will require the phase out of OTC technology at coastal power plants; and

Whereas, the National Marine Fisheries Service (NMFS) is evaluating applications, necessitated by the pernicious impacts of OTC, from thirteen power generating stations located in California requesting authority for incidental take of marine mammals and seven applications from power generating stations in California requesting permits for incidental take of sea turtles; and

Whereas, the Commission has imposed conditions on its leases to reduce the impact of OTC and is seriously concerned about the environmental consequences of the proposed incidental take of marine animals as a result of OTC; and

Whereas, alternative cooling methods such as repowering older power plants are readily available and used nationwide, and can eliminate OTC and its attendant environmental impacts and reduce the greenhouse gas emissions currently associated with fossil fuel power generation: Now, therefore, be it

Resolved by the California State Lands Commission, That it urges the NMFS to: (1) make any incidental take permit consistent with phasing out OTC, and at the minimum, include a clause requiring expiration of the permit if OTC is no longer permitted at the requesting facility or generally within the state; (2) deny any incidental take permit for power plants that have discontinued use of OTC; (3) require that information regarding historical and anticipated take be substantiated and made available to the Commission and the public prior to the issuance of any incidental take permit, and referenced in any draft and/or final permit; and (4) require, if an incidental take permit is issued, that stringent controls be implemented to eliminate or prevent to the maximum extent possible the take or harassment of marine wildlife; and be it further

Resolved, That the State Lands Commission supports OTC alternatives, such as repowering projects, that eliminate OTC, reduce greenhouse gas emissions and other environmental impacts, and are part of an overall plan that moves the state towards increased use of renewables and energy conservation; and be it further

Resolved, That the Commission's Executive Officer transmit copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the National Marine Fisheries Service, to the National Oceanic and Atmospheric Administration, to the United States Environmental Protection

Agency, to the United States Supreme Court, to the Chairs of the State Water Resources Control Board, to the California Energy Commission, to the Public Utilities Commission, to the California Coastal Commission, to the California Air Resources Board, to the California Independent Systems Operator, and to the California Ocean Protection Council, all grantees, and all current lessees of public trust lands that utilize OTC.

POM–406. A resolution adopted by the House of Representatives of the State of Hawaii approving the establishment of a state-province affiliation between the State of Hawaii and the Province of Negros Oriental of the Republic of the Philippines; to the Committee on Foreign Relations.

HOUSE OF RESOLUTION NO. 85

Whereas, the State of Hawaii is actively seeking to expand its international ties and has an abiding interest in developing goodwill, friendship, and economic relations between the people of Hawaii and the people of Asian and Pacific countries; and

Whereas, as part of its effort to achieve this goal, Hawaii has established a number of sister-state agreements with provinces in the Pacific region; and

Whereas, because of the historical relationship between the United States of America and the Republic of the Philippines, there continue to exist valid reasons to promote international friendship and understanding for the mutual benefit of both countries to achieve lasting peace and prosperity as it serves the common interests of both countries; and

Whereas, there are historical precedents exemplifying the common desire to maintain a close cultural, commercial, and financial bridge between ethnic Filipinos living in Hawaii with their relatives, friends, and business counterparts in the Philippines, such as the previously established sister-city relationship between the City and County of Honolulu and the City of Cebu in the Province of Cebu; and

Whereas, similar state-province relationships exist between the State of Hawaii and the Provinces of Cebu, Ilocos Norte, Ilocos Sur, and Pangasinan, whereby cooperation and communication have served to establish exchanges in the areas of business, trade, agriculture and industry, tourism, sports, health care, social welfare, and other fields of human endeavor; and

Whereas, a similar state-province relationship would reinforce and cement this common bridge for understanding and mutual assistance between ethnic Filipinos of both the State of Hawaii and the Province of Negros Oriental; and

Whereas, with its vast fertile land resources, Negros Oriental's major industry is agriculture and lists its primary crops as sugarcane, corn, coconut, and rice, but the province is emerging as a technological center in the Central Philippines with its growing business process outsourcing and other technology-related industries, and is also becoming a notable tourist destination in the Visayas, making the province much like Hawaii; now, therefore, be it

Resolved by the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008, That Governor Linda Lingle of the State of Hawaii, or her designee, be authorized and is requested to take all necessary actions to establish a state-province affiliation with the Province of Negros Oriental in the Republic of the Philippines; and be it further

Resolved, That the Governor or her designee is requested to keep the Legislature of the State of Hawaii fully informed of the process in establishing the affiliation and involved in its formalization to the extent practicable; and be it further

Resolved, That the Province of Negros Oriental be afforded the privileges and honors that Hawaii extends to its sister states and provinces; and be it further

Resolved, That if by June 30, 2013, the state-province affiliation with the Province of Negros Oriental has not reached a sustainable basis by providing mutual economic benefits through local community support, the state-province affiliation shall be withdrawn; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's Congressional delegation, the Governor of the State of Hawaii, the President of the Republic of the Philippines through its Honolulu Consulate General, and the Governor and Provincial Board of the Province of Negros Oriental, Republic of the Philippines.

POM–407. A resolution adopted by the House of Representatives of the State of Hawaii urging Congress to enact legislation to waive single state agency requirements with regard to the administration of funds under the Homeland Security Grant Program; to the Committee on Homeland Security and Governmental Affairs.

HOUSE RESOLUTION NO. 209

Whereas, on March 12, 1987, the President of the United States directed all affected agencies to issue a grants management common rule to adopt government-wide terms and conditions for grants to state and local governments; and

Whereas, consistent with their legal obligations, all federal agencies administering programs that involve grants and cooperative agreements with state governments must follow the policies outlined in the federal Office of Management and Budget Circular A–102, as revised and amended; and

Whereas, the Office of Management and Budget is authorized to grant deviations from the requirements when permissible under existing law, however deviations are permitted only in exceptional circumstances; and

Whereas, according to a guidance document from the Department of Homeland Security, the governor of each state must designate a State Administrative Agency to apply for and administer the funds under the Homeland Security Grant Program; and

Whereas, Hawaii State Civil Defense is the State Administrative Agency for these purposes in Hawaii; and

Whereas, according to the Office for Domestic Preparedness Information Bulletin No. 112 (May 26, 2004), the State Administrative Agency is obligated to pass through no less than eighty per cent of its total grant award to local units of government within the State; and

Whereas, according to the Office for Domestic Preparedness Information Bulletin No. 120 (June 16, 2004), the remaining twenty per cent can be retained at the state level; and

Whereas, qualifying state and local government agencies in Hawaii can apply to Hawaii State Civil Defense for State Homeland Security Grant Program funds, and Hawaii State Civil Defense allocates funds based on investments and how well the program capabilities of the various state agencies tie together; and

Whereas, a single state agency requirement in the application and allocation of funds under the Homeland Security Grant Program is misplaced because it grants considerable discretion to one state agency for the allocation of funds, with no oversight by the state legislature; and

Whereas, it is traditionally the role of the state legislature as the policy making branch of the government to determine how financial resources should be allocated; and

Whereas, state legislatures should have greater input and oversight regarding the allocation of funds under the Homeland Security Grant Program, now: Therefore, be it

Resolved by the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008, That the United States Congress is requested to enact legislation to waive the single state agency requirement with regard to the administration of funds under the Homeland Security Grant Program and to provide state legislatures with authority to approve the allocation of funds under the Homeland Security Grant Program; and it be it further

Resolved That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Hawaii congressional delegation, and the State Adjutant General.

POM–408. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to take the actions necessary to expedite the reopening of the Arabi Branch of the United States Postal Service located in St. Bernard Parish; to the Committee on Homeland Security and Governmental Affairs.

SENATE CONCURRENT RESOLUTION NO. 76

Whereas, it has been almost three years since hurricanes Katrina and Rita devastated this community, flooding the Arabi branch of the United States Postal Service; and

Whereas, the effects of hurricanes Katrina and Rita continue to effect the operations of government inclusive of operations of branches of the United States Postal Service in St. Bernard Parish; and

Whereas, one essential to the continued recovery of the citizens of Arabi, Louisiana, along with the full restoration of governmental services, is the reopening of the Arabi branch of the United States Postal Service; and

Whereas, this branch will be well used by the individuals in this community, particularly by the elderly, the disabled, and parents with young children who need a convenient location to conduct business with the postal service. Therefore, be it further

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to expedite the reopening of the Arabi branch of the United States Postal Service in St. Bernard Parish. Be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 27. A bill to authorize the implementation of the San Joaquin River Restoration Settlement (Rept. No. 110–400).

S. 1171. A bill to amend the Colorado River Storage Project Act and Public Law 87–483 to

authorize the construction and rehabilitation of water infrastructure in Northwestern New Mexico, to authorize the use of the reclamation fund to fund the Reclamation Water Settlements Fund, to authorize the conveyance of certain Reclamation land and infrastructure, to authorize the Commissioner of Reclamation to provide for the delivery of water, and for other purposes (Rept. No. 110–401).

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 2009'' (Rept. No. 110–402).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 3721. A bill to designate the facility of the United States Postal Service located at 1190 Lorena Road in Lorena, Texas, as the ''Marine Gunnery Sgt. John D. Fry Post Office Building''.

H.R. 4185. A bill to designate the facility of the United States Postal Service located at 11151 Valley Boulevard in El Monte, California, as the ''Marisol Heredia Post Office Building''.

H.R. 5168. A bill to designate the facility of the United States Postal Service located at 19101 Cortez Boulevard in Brooksville, Florida, as the ''Cody Grater Post Office Building''.

H.R. 5395. A bill to designate the facility of the United States Postal Service located at 11001 Dunklin Drive in St. Louis, Missouri, as the ''William 'Bill' Clay Post Office Building''.

H.R. 5479. A bill to designate the facility of the United States Postal Service located at 117 North Kidd Street in Ionia, Michigan, as the ''Alonzo Woodruff Post Office Building''.

H.R. 5517. A bill to designate the facility of the United States Postal Service located at 7231 FM 1960 in Humble, Texas, as the ''Texas Military Veterans Post Office''.

H.R. 5528. A bill to designate the facility of the United States Postal Service located at 120 Commercial Street in Brockton, Massachusetts, as the ''Rocky Marciano Post Office Building''.

S. 2622. A bill to designate the facility of the United States Postal Service located at 11001 Dunklin Road in St. Louis, Missouri, as the ''William 'Bill' Clay Post Office''.

S. 3015. A bill to designate the facility of the United States Postal Service located at 18 S. G Street, Lakeview, Oregon, as the ''Dr. Bernard Daly Post Office Building''.

S. 3082. A bill to designate the facility of the United States Postal Service located at 1700 Cleveland Avenue in Kansas City, Missouri, as the ''Reverend Earl Abel Post Office Building''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DODD for the Committee on Banking, Housing, and Urban Affairs.

*Elisse Walter, of Maryland, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2012.

*Troy A. Paredes, of Missouri, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2013.

*Luis Aguilar, of Georgia, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2010.

*Michael E. Fryzel, of Illinois, to be a Member of the National Credit Union Administration Board for a term expiring August 2, 2013.

*Susan D. Peppler, of California, to be an Assistant Secretary of Housing and Urban Development.

*Sheila McNamara Greenwood, of Louisiana, to be an Assistant Secretary of Housing and Urban Development.

*Neel T. Kashkari, of California, to be an Assistant Secretary of the Treasury.

*Donald B. Marron, of Maryland, to be a Member of the Council of Economic Advisers.

*Joseph J. Murin, of Pennsylvania, to be President, Government National Mortgage Association.

*Christopher R. Wall, of Virginia, to be an Assistant Secretary of Commerce.

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

*Elaine C. Duke, of Virginia, to be Under Secretary for Management, Department of Homeland Security.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. HAGEL (for himself and Mrs. FEINSTEIN):

S. 3187. A bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 3188. A bill for the liquidation or reliquidation of certain entries of top-of-the-stove stainless steel cooking ware from the Republic of Korea, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 3189. A bill to amend Public Law 106–392 to require the Administrator of the Western Area Power Administration and the Commissioner of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER:

S. 3190. A bill to amend the Internal Revenue Code of 1986 to require employers to notify their employees of the availability of the earned income credit; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. NELSON of Florida, Ms. CANTWELL, Mr. KERRY, Mr. VITTER, Mr. LEVIN, Mr. VOINOVICH, Mrs. BOXER, Mr. CARDIN, and Ms. MIKULSKI):

S. 3191. A bill to develop and promote a comprehensive plan for a national strategy to address harmful algal blooms and hypoxia through baseline research, forecasting and monitoring, and mitigation and control while helping communities detect, control, and mitigate coastal and Great Lakes harmful algal blooms and hypoxia events; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 3192. A bill to amend the Act of August 9, 1955, to authorize the Cow Creek Band of Umpqua Tribe of Indians, the Coquille Indian Tribe, and the Confederated Tribes of the Siletz Indians of Oregon to obtain 99-year lease authority for trust land; to the Committee on Indian Affairs.

By Mr. SCHUMER (for himself and Mr. ENSIGN):

S. 3193. A bill to restrict nuclear cooperation with the Kingdom of Saudi Arabia; to the Committee on Foreign Relations.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 3194. A bill to transfer surplus Federal land administered by the Coast Guard in the State of Oregon; to the Committee on Indian Affairs.

By Mr. SMITH (for himself and Mr. DODD):

S. 3195. A bill to provide assistance to adolescents and young adults with serious mental health disorders as they transition to adulthood; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 3196. A bill to amend the Federal Water Pollution Control Act to provide assistance for programs and activities to protect the water quality of Puget Sound, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 3197. A bill to amend title 11, United States Code, to exempt for a limited period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. SMITH, Ms. CANTWELL, and Ms. SNOWE):

S. 3198. A bill to amend title 46, United States Code, with respect to the navigation of submersible or semi-submersible vessels without nationality; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Ms. CANTWELL, Mr. SMITH, Mrs. MURRAY, Mr. SCHUMER, Ms. STABENOW, and Mr. VITTER):

S. 3199. A bill to amend the Internal Revenue Code of 1986 to exempt certain shipping from the harbor maintenance tax; to the Committee on Finance.

By Mr. WICKER (for himself, Mr. VITTER, Mr. CRAIG, Mr. ROBERTS, Mr. INHOFE, Mr. BROWNBACK, Mr. ALLARD, Mr. THUNE, and Mr. SHELBY):

S.J. Res. 43. A joint resolution proposing an amendment to the Constitution of the United States relating to marriage; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself and Mr. CONRAD):

S. Res. 601. A resolution designating October 19 through October 25, 2008, as ''National Save for Retirement Week''; to the Committee on the Judiciary.

By Mr. NELSON of Nebraska (for himself, Mr. CHAMBLISS, Mr. WHITEHOUSE, Mr. JOHNSON, and Mr. SMITH):

S. Res. 602. A bill supporting the goals and ideals of ''National Life Insurance Awareness Month''; to the Committee on Banking, Housing, and Urban Affairs.

ADDITIONAL COSPONSORS

S. 186

At the request of Mr. SPECTER, the names of the Senator from Virginia (Mr. WEBB) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 186, a bill to provide appropriate protection to attorney-client privileged communications and attorney work product.

S. 901

At the request of Mr. GRAHAM, his name was added as a cosponsor of S. 901, a bill to amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act.

S. 991

At the request of Mr. DURBIN, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 991, a bill to establish the Senator Paul Simon Study Abroad Foundation under the authorities of the Mutual Educational and Cultural Exchange Act of 1961.

S. 1069

At the request of Ms. SNOWE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1069, a bill to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 1183

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1183, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 1232

At the request of Mr. DODD, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 1232, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

S. 1924

At the request of Mr. CARPER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1924, a bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty.

S. 1977

At the request of Mr. KERRY, his name was added as a cosponsor of S. 1977, a bill to provide for sustained United States leadership in a cooperative global effort to prevent nuclear terrorism, reduce global nuclear arsenals, stop the spread of nuclear weapons and related material and technology, and support the responsible and peaceful use of nuclear technology.

S. 2059

At the request of Mrs. CLINTON, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 2059, a bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

S. 2505

At the request of Ms. CANTWELL, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2505, a bill to allow employees of a commercial passenger airline carrier who receive payments in a bankruptcy proceeding to roll over such payments into an individual retirement plan, and for other purposes.

S. 2565

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2565, a bill to establish an awards mechanism to honor exceptional acts of bravery in the line of duty by Federal law enforcement officers.

S. 2579

At the request of Mr. INOUYE, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2579, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

S. 2668

At the request of Mr. KERRY, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2668, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 2669

At the request of Ms. SNOWE, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2669, a bill to provide for the implementation of a Green Chemistry Research and Development Program, and for other purposes.

S. 2672

At the request of Mr. CONRAD, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 2672, a bill to provide incentives to physicians to practice in rural and medically underserved communities.

S. 2799

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2799, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 2902

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2902, a bill to ensure the independent operation of the Office of Advocacy of the Small Business Administration, ensure complete analysis of potential impacts on small entities of rules, and for other purposes.

S. 2920

At the request of Mr. KERRY, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2920, a bill to reauthorize and improve the financing and entrepreneurial development programs of the Small Business Administration, and for other purposes.

S. 2931

At the request of Ms. SNOWE, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2931, a bill to amend title XVIII of the Social Security Act to exempt complex rehabilitation products and assistive technology products from the Medicare competitive acquisition program.

S. 2952

At the request of Mr. MENENDEZ, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2952, a bill to improve food safety through mandatory meat, meat product, poultry, and poultry product recall authority, to require the Secretary of Agriculture to improve communication about recalls with schools participating in the school lunch and breakfast programs, and for other purposes.

S. 2955

At the request of Mr. WHITEHOUSE, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 2955, a bill to authorize funds to the Local Initiatives Support Corporation to carry out its Community Safety Initiative.

S. 2979

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2979, a bill to exempt the African National Congress from treatment as a terrorist organization, and for other purposes.

S. 3038

At the request of Mr. GRASSLEY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 3038, a bill to amend part E of title IV of the Social Security Act to extend

the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes.

S. 3061

At the request of Mr. BIDEN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3061, a bill to authorize appropriations for fiscal years 2008 through 2011 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

S. 3093

At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 3093, a bill to extend and improve the effectiveness of the employment eligibility confirmation program.

S. 3134

At the request of Mr. NELSON of Florida, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3134, a bill to amend the Commodity Exchange Act to require energy commodities to be traded only on regulated markets, and for other purposes.

S. 3141

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3141, a bill to provide for nondiscrimination by eligible lenders in the Federal Family Education Loan Program.

S. 3143

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3143, a bill to assist law enforcement agencies in locating, arresting, and prosecuting fugitives from justice.

S. 3166

At the request of Mr. SESSIONS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3166, a bill to amend the Immigration and Nationality Act to impose criminal penalties on individuals who assist aliens who have engaged in genocide, torture, or extrajudicial killings to enter the United States.

S. 3167

At the request of Mr. BURR, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of S. 3167, a bill to amend title 38, United States Code, to clarify the conditions under which veterans, their surviving spouses, and their children may be treated as adjudicated mentally incompetent for certain purposes.

S. 3170

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 3170, a bill to amend the Energy Policy and Conservation Act to modify the conditions for the release of products from the Northeast Home Heating Oil Reserve Account, and for other purposes.

S. RES. 580

At the request of Mr. BAYH, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. Res. 580, a resolution expressing the sense of the Senate on preventing Iran from acquiring a nuclear weapons capability.

AMENDMENT NO. 4995

At the request of Mr. BROWN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 4995 intended to be proposed to H.R. 3221, a bill to provide needed housing reform and for other purposes.

AMENDMENT NO. 5005

At the request of Mr. ISAKSON, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 5005 intended to be proposed to H.R. 3221, a bill to provide needed housing reform and for other purposes.

AMENDMENT NO. 5020

At the request of Mr. ENSIGN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of amendment No. 5020 intended to be proposed to H.R. 3221, a bill to provide needed housing reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHUMER:

S. 3190. A bill to amend the Internal Revenue Code of 1986 to require employers to notify their employees of the availability of the earned income credit; to the Committee on Finance.

Mr. SCHUMER. Mr. President, I am pleased to introduce today, along with my colleague from the House, Rep. RAHM EMANUEL, an important and noncontroversial bill designed to increase the percentage of eligible families that claim the Earned Income Tax Credit, or EITC, every year.

The bill is endorsed by the Service Employees International Union, SEIU, Wal-Mart, the Center on Budget and Policy Priorities, the Citizens for Tax Justice, the Leadership Conference on Civil Rights, Corporate Voices for Working Families, the College and University Professional Association for Human Resources, TJ Maxx, Kindred Healthcare, and Cintas.

Even in these tough economic times, Wal-Mart is still the nation's top private employer, and they place a huge emphasis on keeping their business costs low. If they are taking such a lead role on this bill, it should send a strong signal to the business community and to Republicans that it is a good idea and that the cost burden on business is next to nothing.

The EITC is a hugely important and popular program for working families. Started under President Ford after President Nixon advanced a similar program, and expanded under virtually every President since, the EITC sends a message that if you work hard and play by the rules, you shouldn't live in poverty.

I know the program isn't perfect, but it's the best tax tool we have for helping working families make ends meet. Combined with the recent increase in the minimum wage that Democrats pushed through the Congress, the EITC is improving the lives of million of families.

For tax year 2006, more than $44 billion in benefits were distributed to more than 22.4 million American families. That shows what a success the program is.

As one of the most populous states, with millions of working families of modest means, the numbers for New York State by itself are impressive. In 2006, nearly 1.5 million New York families took advantage of the EITC, claiming $2.8 billion in benefits. That's an average of $1,867 per family. But if the estimates from the Government Accountability Office are right and 25 percent of eligible families do not file for the credit, that's almost 500,000 families in my state who are missing out.

At an average EITC benefit of nearly $1,900, that means that more than $900 million could be going back into the pockets of New Yorkers—without a single change in the law—if we could find a way to reach these families. It could represent a second stimulus package for 500,000 working families as large as the one we passed earlier this year—and all eligible families have to do is ask for it.

With gasoline costing over $4 a gallon, and health care and tuition costs on the rise, if we can get an average of $1,900 into the pockets of 500,000 New York families, or 7.5 million people nationally—that's an opportunity we can't pass up.

Since these families are eligible for the credit under current law, it's not a policy that has to be scored or ''paid for'' under the PAYGO rules, because current law assumes these benefits will be paid. I can't imagine anyone objecting to this bill.

The Emanuel/Schumer legislation simply requires that employers notify their workers of their potential eligibility for the EITC when they send out the annual W–2 wage notice. To satisfy the notice requirement, employers would provide either a copy of IRS Notice 797, which explains how one qualifies for the EITC, or a separate written notice that is described in the language of the bill.

For those that might be concerned about the cost to business, our bill exempts firms with less than 25 employees.

This is a bill that is such commonsense, and represents such little cost to business, and offers such a large potential benefit to so many families, that it's something that we ought to be able to pass unanimously before the end of the year.

Rep. EMANUEL and I sent a letter to Treasury Secretary Henry Paulson today about the bill. Even though the Bush Administration is nearing its end, the goals of this legislation could be accomplished via regulation or executive order, and I urge the Administration to take such action and render the bill moot. Rep. EMANUEL and I would be happy not to have to pass this bill. Otherwise, we will push it and hope to pass it with broad bipartisan support by year's end. With unions and major employers both supporting the bill, there really should be no objection.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD.

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

S. 3190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Earned Income Credit Information Act of 2008''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds:

(1) President Gerald Ford and Congress created the earned income credit (EIC) in 1975 to offset the adverse effects of Social Security and Medicare payroll taxes on working poor families and to encourage low-income workers to seek employment rather than welfare.

(2) President Ronald Reagan described the earned income credit as ''the best anti-poverty, the best pro-family, the best job-creation measure to come out of Congress.''

(3) Over the last 30 years, the EIC program has grown into the largest Federal anti-poverty program in the United States. In 2005, 22.8 million tax filers received $42.4 billion in tax credits through the EIC program.

(4) In 2007, the EIC provided a maximum Federal benefit of $4,716 for families with 2 or more children, $2,853 for families with a single child, and $428 for a taxpayer with no qualifying children.

(5) Based on analysis conducted by the General Accountability Office, 25 percent of those eligible to receive the EIC do not take advantage of the tax benefit.

(6) Based on analysis conducted by the Joint Economic Committee, working Americans may have lost out on approximately $8 billion in unclaimed earned income credits in 2004.

(7) In response to a study by the California Franchise Tax Board that found that there were approximately 460,000 California families that qualified, but did not file, for the EIC, Governor Arnold Schwarzenegger signed into law Assembly Bill 650, the Earned Income Tax Credit Information Act, on October 13, 2007. The law requires that California employers notify employees of their potential eligibility for the EIC.

(8) In order to ensure that tax benefits designed to assist working Americans reach the maximum number of people, the Federal Government should enact a similar law.

(b) PURPOSE.—The purpose of this Act is to inform the greatest possible number of Americans about their potential eligibility for the earned income credit in a way that is neither costly nor burdensome for employers or the Government.

SEC. 3. EMPLOYER NOTIFICATION OF AVAILABILITY OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7529. EMPLOYER NOTIFICATION OF AVAILABILITY OF EARNED INCOME CREDIT.

''(a) IN GENERAL.—Every employer required to provide a statement under section 6051 (relating to W–2 statements) to a potential EIC-eligible employee shall provide to such employee the notice described in subsection (c).

''(b) POTENTIAL EIC-ELIGIBLE EMPLOYEE.—For purposes of this section, the term 'potential EIC-eligible employee' means any individual whose annual wages from the employer are less than the amount of earned income (as defined in section 32(c)(2)) at which the credit under section 32(a) phases out for an individual described in section 32(c)(1)(A)(ii) (or such other amount as may be prescribed by the Secretary).

''(c) CONTENTS OF NOTICE.—

''(1) IN GENERAL.—The notice required by subsection (a) shall be—

''(A) a copy of Internal Revenue Service Notice 797 or any successor notice, or

''(B) a notice stating: 'Based on your annual earnings, you may be eligible to receive the earned income credit from the Federal Government. The earned income credit is a tax credit for certain working individuals and families. In 2008, earned income credit benefits are available for taxpayers with earnings up to $38,646 ($41,646 if married filing jointly). Eligibility and benefit amounts vary according to filing status (single or married), number of qualifying children, and other sources of income. For example, in 2008, earned income credit benefits are available for childless taxpayers earning less than $15,880, taxpayers with 1 child earning less than $36,995, and taxpayers with 2 or more children earning less than $41,646. In most cases, earned income credit payments will not be used to determine eligibility for Medicaid, supplemental security income, food stamps, low-income housing or most temporary assistance for needy families programs. Even if you do not owe Federal taxes, you may qualify, but must file a tax return to receive the earned income credit. For information regarding your eligibility to receive the earned income credit, contact the Internal Revenue Service by calling 1-800-829-1040 or through its web site at www.irs.gov. The Volunteer Income Tax Assistance (VITA) program provides free tax preparation assistance to individuals under the above income limits. Call the IRS at 1-800-906-9887 to find sites in your area.'.

''(2) YEARS AFTER 2008.—In the case of the notice in paragraph (1)(B) for taxable years beginning in a calendar year after 2008—

''(A) such calendar year shall be substituted for '2008',

''(B) the lowest amount of earned income for a taxpayer with no qualifying children at which the credit phases out under section 32(a)(2)(B) for taxable years beginning in such calendar year shall be substituted for '$15,880',

''(C) the lowest amount of earned income for a taxpayer with 1 qualifying child at which the credit phases out under section 32(a)(2)(B) for such taxable years shall be substituted for '$36,995', and

''(D) the lowest amount of earned income for a taxpayer with 2 or more qualifying children at which the credit phases out under section 32(a)(2)(B) for such taxable years shall be substituted for '$41,646'.

''(d) EXEMPTION FOR SMALL EMPLOYERS.—

''(1) IN GENERAL.—An employer shall not be required to provide notices under this section during any calendar year if the employer employed an average of 25 or fewer employees on business days during the preceding calendar year. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination under paragraph (1) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(3) SPECIAL RULES.—

''(A) CONTROLLED GROUPS.—For purposes of this subsection, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

''(B) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(e) TIMING OF NOTICE.—The notice required by subsection (a) shall be provided to each employee at the same time the employer statement is furnished to each such employee under section 6051.

''(f) MANNER OF PROVIDING NOTICE.—The notice required by subsection (a) shall be provided either by hand or by mail to the address used to provide the statement under section 6051 to the employee.''.

(b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 6724(d)(2) of such Code is amended by striking ''or'' at the end of subparagraph (BB), by striking the period at the end of subparagraph (CC) and inserting '', or'', and by inserting after subparagraph (CC) the following new subparagraph:

''(DD) section 7529 (relating to employer notification of availability of earned income credit).''.

(c) CLERICAL AMENDMENT.—The table of sections for such chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Employer notification of availability of earned income credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to statements required to be provided under section 6051 of the Internal Revenue Code of 1986 more than 180 days after the date of the enactment of this Act.

JUNE 25, 2008.

Hon. HENRY PAULSON,
Secretary, Department of the Treasury, Washington, DC.

DEAR SECRETARY PAULSON: Over the last 30 years, the Earned Income Tax Credit (EITC) has grown into the largest Federal anti-poverty program in the United States. In 2006, over 22 million taxpayers received almost $44 billion through the EITC. During its history, the program has been supported by both Democrats and Republicans. President Ronald Reagan described the earned income credit as ''the best anti-poverty, the best pro-family, the best job-creation measure to come out of Congress.''

As you know, millions of eligible Americans fail to take advantage of this critical program, costing themselves billions in tax benefits. Based on an analysis conducted by the General Accountability Office, 25 percent of those eligible to receive the EITC do not take advantage of it. The Internal Revenue Service (IRS) estimates that between 20 and 25 percent of taxpayers who are eligible don't claim the credit. While this issue has been a persistent source of concern, it is particularly troubling now when Americans are contending with record high gas prices and surging costs for other consumer goods.

On October 13, 2007, Governor Arnold Schwarzenegger signed into law Assembly Bill 650, the Earned Income Tax Credit Information Act. The legislation seeks to reduce the number of eligible taxpayers who fail to take advantage of the EITC by requiring California employers to notify their employees of their potential eligibility for the EITC. We believe that the California law should serve as a model for federal action, and will shortly introduce legislation to accomplish this goal.

We bring this to your attention because we believe that the goal of increasing awareness of the EITC, and thus expanding the number of taxpayers who access it, can also be accomplished through administrative rulemaking.

Earlier in the year, you played a critical role in providing needed economic stimulus to working Americans that is now helping to soften the brunt of our current economic downturn. By increasing the number of eligible taxpayers who take advantage of the EITC program, you can build on this accomplishment and add further stimulus by providing, in some cases, thousands of dollars of assistance that can be used to buy gas or groceries, or pay the mortgage.

For this reason, we ask you to explore what the Administration can do to improve EITC outreach efforts, and specifically ask that you examine the possibility of requiring employers to provide information to their employees about the EITC at the same time that they provide W–2 statements. Earlier this year, at an EITC Awareness Day event, you noted: ''Ensuring that more eligible families receive their EITC is important this year, as it is every year. I encourage people all across America to check to see if you are eligible for the Earned Income Credit.'' We couldn't agree more, but believe we should also look to employers to help taxpayers take advantage of critical federal tax programs like the EITC.

Finally, we are aware that the Administration instructed federal agencies on May 9, 2008 to not undertake any new rulemaking procedures after June 1, 2008. We sincerely hope that this policy will not prevent the Administration from helping hardworking Americans who need it the most.

We look forward to your response and thank you for your consideration.

Sincerely,

RAHM EMANUEL,
House Democratic Caucus Chair.
CHARLES SCHUMER,
Senate Democratic Caucus Vice-Chair.

By Ms. SNOWE (for herself, Mr. NELSON of Florida, Ms. CANTWELL, Mr. KERRY, Mr. VITTER, Mr. LEVIN, Mr. VOINOVICH, Mrs BOXER, Mr. CARDIN, and Ms. MIKULSKI):

S. 3191. A bill to develop and promote a comprehensive plan for a national strategy to address harmful algal blooms and hypoxia through baseline research, forecasting and monitoring, and mitigation and control while helping communities detect, control, and mitigate coastal and Great Lakes harmful algal blooms and hypoxia events; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Harmful Algal Bloom and Hypoxia Amendments Act of 2008. This bill would enhance the research programs established in the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998 and reauthorized in 2004, which have greatly enhanced our ability to predict outbreaks of harmful algal blooms and the extent of hypoxic zones. But knowing when outbreaks will occur is only half the battle. By funding additional research into mitigation and prevention of HABs and hypoxia, and by enabling communities to develop response strategies to more effectively reduce their effects on our coastal communities, this legislation would take the next critical steps to reducing the social and economic impacts of these potentially disastrous outbreaks.

I am proud to continue my leadership on this important issue and I particularly want to thank my counterpart on this key piece of legislation, Senator BILL NELSON. My partnership with Senator BREAUX on the first two harmful algal bloom bills proved extremely fruitful, and I am pleased that the Gulf of Mexico—whose coastal residents are severely impacted by both harmful algal blooms, also known as HABs, and hypoxia—will continue to be so well represented as this program moves into the future. I also want to thank the bill's additional co-sponsors, Senators CANTWELL, KERRY, VITTER, VOINOVICH, BOXER and LEVIN for their vital contributions. We all represent coastal States directly affected by harmful algal blooms and hypoxia, and we see first hand the ecological and economic damage caused by these events.

In New England blooms of Alexandrium algae, more commonly known as ''red tide'', can cause shellfish to accumulate toxins that when consumed by humans lead to paralytic shellfish poisoning (PSP), a potentially fatal neurological disorder. Therefore, when levels of Alexandrium reach dangerous levels, our fishery managers are forced to close shellfish beds that provide hundreds of jobs and add millions of dollars to our regional economy. Red tide outbreaks—which occur in various forms not just in the northeast, but along thousands of miles of U.S. coastline—have increased dramatically in the Gulf of Maine in the last 20 years, with major blooms occurring almost every year.

In 2005, the most severe red tide since 1972 blanketed the New England coast from Martha's Vineyard to Downeast Maine, resulting in extensive commercial and recreational shellfish harvesting closures lasting several months at the peak of the seafood harvesting season. In a peer-reviewed study, economists found that the 2005 event caused over $2.4 million in lost landings of shellfish in the State of Maine alone, and more than $10 million throughout New England.

In May of this year, scientists once more predicted an abundance of Alexandrium off the New England coast, marking the onset of yet another severe harmful algal bloom in the area. Just yesterday, Maine's Department of Marine Resources announced the closure of additional shellfish beds covering many areas from Cutler east to the Canadian border, and today the Food and Drug Administration asked the National Marine Fisheries Service to issue a closure of a section of Federal waters near George's Bank to the harvest of ocean quahogs and surf clams.

Still, while this year's bloom has tracked the pattern of the 2005 event, thanks to previous investments in HAB programs, localized testing has led to fewer closures. Unlike 2005 when nearly the entire coast of Massachusetts and much of Maine was declared off-limits to shell fishermen, in this year's bloom, some unaffected areas remain open despite being directly adjacent to contaminated beds. These detailed forecasting and testing measures will greatly reduce the economic impact such outbreaks impose on our coastal communities, and is directly attributable to the efforts authorized in previous HAB legislation.

Mr. President, while we have made great strides in bloom prediction and monitoring, it is clear that these problems have not gone away, but rather increased in magnitude. Harmful algal blooms remain prevalent nationwide, and areas of hypoxia, also known as ''dead zones'', are now occurring with increasing frequency. Within a dead zone, oxygen levels plummet to the point at which they can no longer sustain life, driving out animals that can move, and killing those that cannot. The most infamous dead zone occurs annually in the Gulf of Mexico, off the shores of Louisiana. In 2007, researchers there predicted the biggest hypoxic zone ever recorded, covering more than 8,500 square miles. Dead zones are also occurring with increasing frequency in more areas than ever before, including off the coasts of Oregon and Texas.

The amendments contained in this legislation would enhance the Nation's ability to predict, monitor, and ultimately control harmful algal blooms and hypoxia. Understanding when these blooms will occur is vital, but the time has come to take this program to the next level—to determine not just when an outbreak will occur, but how to reduce its intensity or prevent its occurrence all together. This bill would build on NOAA's successes in research and forecasting by creating a program to mitigate and control HAB outbreaks.

This bill also recognizes the need to enhance coordination among State and local resource managers—those on the front lines who must make the decisions to close beaches or shellfish beds. Their decisions are critical to protecting human health, but can also impose significant economic impacts. The bill would mandate creation of Regional Research and Action Plans that would identify baseline research, possible State and local government actions to prepare for and mitigate the impacts of HABs, and establish outreach strategies to ensure the public is

informed of the dangers these events can present. A regional focus on these issues will ensure a more effective and efficient response to future events.

Mr. President, if enacted, this critical reauthorization would greatly enhance our Nation's ability to predict, monitor, mitigate, and control outbreaks of HABs and hypoxia. Over half the U.S. population resides in coastal regions, and we must do all in our power to safeguard their health and the health of the marine environment. The existing Harmful Algal Bloom and Hypoxia Program has done a laudable job to date, and this authorization will allow them to expand their scope and provide greater benefits to the Nation as a whole. I thank my cosponsors again for their efforts in developing this vital legislation.

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. 3191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Harmful Algal Blooms and Hypoxia Amendments Act of 2008''.

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

SEC. 2. AMENDMENT OF HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL ACT OF 1998.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 note).

SEC. 3. FINDINGS.

Section 602 is amended—

(1) by striking paragraph (8) and inserting the following:

''(8) harmful algal blooms and hypoxia can be triggered and exacerbated by increases in nutrient loading from point and non-point sources, much of which originates in upland areas and is delivered to marine and freshwater bodies via river discharge, thereby requiring integrated and landscape-level research and control strategies;'';

(2) by striking ''and'' after the semicolon in paragraph (11);

(3) by striking ''hypoxia.'' in paragraph (12) and inserting ''hypoxia;''; and

(4) by adding at the end thereof the following:

''(13) harmful algal blooms and hypoxia affect many sectors of the coastal economy, including tourism, public health, and recreational and commercial fisheries; and according to a recent report produced by NOAA, the United States seafood and tourism industries suffer annual losses of $82 million due to economic impacts of harmful algal blooms;

''(14) global climate change and its effect on oceans and the Great Lakes may ultimately play a role in the increase or decrease of harmful algal bloom and hypoxic events;

''(15) proliferations of harmful and nuisance algae can occur in all United States waters, including coastal areas and estuaries, the Great Lakes, and inland waterways, crossing political boundaries and necessitating regional coordination for research, monitoring, mitigation, response, and prevention efforts; and

''(16) following passage of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, Federally-funded and other research has led to several technological advances, including remote sensing, molecular and optical tools, satellite imagery, and coastal and ocean observing systems, that provide data for forecast models, improve the monitoring and prediction of these events, and provide essential decision making tools for managers and stakeholders.''.

SEC. 4. PURPOSE.

The Act is amended by inserting after section 602 the following:

''SEC. 602A. PURPOSES.

''The purposes of this Act are—

''(1) to provide for the development and coordination of a comprehensive and integrated national program to address harmful algal blooms, hypoxia, and nuisance algae through baseline research, monitoring, prevention, mitigation, and control;

''(2) to provide for the assessment and consideration of regional and national ecosystem, socio-economic, and human health impacts of harmful and nuisance algal blooms and hypoxia, and integration of that assessment into marine and freshwater resource decisions; and

''(3) to facilitate regional, State, and local efforts to develop and implement appropriate harmful algal bloom and hypoxia event response plans, strategies, and tools including outreach programs and information dissemination mechanisms.''.

SEC. 5. INTERAGENCY TASK FORCE ON HARMFUL ALGAL BLOOMS AND HYPOXIA.

(a) FEDERAL REPRESENTATIVES.—Section 603(a) is amended—

(1) by striking ''The Task Force shall consist of the following representatives from—'' and inserting ''The Task Force shall consist of representatives of the Office of the Secretary from each of the following departments and of the office of the head of each of the following Federal agencies:'';

(2) by striking ''the'' in paragraphs (1) through (11) and inserting ''The'';

(3) by striking the semicolon in paragraphs (1) through (10) and inserting a period.

(4) by striking ''Quality; and'' in paragraph (11) and inserting ''Quality.''; and

(5) by striking ''such other'' in paragraph (12) and inserting ''Other''.

(b) STATE REPRESENTATIVES.—Section 603 is amended—

(1) by redesignating subsections (b) through (i) as subsections (c) through (j), respectively;

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

''(b) STATE REPRESENTATIVES.—The Secretary shall establish criteria for determining appropriate States to serve on the Task Force and establish and implement a nominations process to select representatives from 2 appropriate States in different regions, on a rotating basis, to serve 2-year terms on the Task Force.'';

(3) in subsection (h), as redesignated—

(A) by striking ''Not less than once every 5 years the'' in paragraph (1) and inserting ''The'';

(B) by striking ''The first such'' in paragraph (1) and inserting ''The'';

(C) by striking ''assessments'' in paragraph (2) and inserting ''assessment''; and

(4) in subsection (i), as redesignated—

(A) by striking ''Not less than once every 5 years the'' in paragraph (1) and inserting ''The'';

(B) by striking ''The first such'' in paragraph (1) and inserting ''The'';

(C) by striking ''All subsequent assessments'' in paragraph (1) and inserting ''The assessment''; and

(D) by striking ''assessments'' in paragraph (2) and inserting ''assessment''.

SEC. 6. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

The Act is amended by inserting after section 603 the following:

''SEC. 603A. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

''(a) ESTABLISHMENT.—The President, acting through NOAA, shall establish and maintain a national program for integrating efforts to address harmful algal bloom and hypoxia research, monitoring, prediction, control, mitigation, prevention, and outreach.

''(b) TASK FORCE FUNCTIONS.—The Task Force shall be the oversight body for the development and implementation of the national harmful algal bloom and hypoxia program and shall—

''(1) coordinate interagency review of plans and policies of the Program;

''(2) assess interagency work and spending plans for implementing the activities of the Program;

''(3) assess the Program's distribution of Federal grants and funding to address research priorities;

''(4) support implementation of the actions and strategies identified in the regional research and action plans under subsection (d);

''(5) support the development of institutional mechanisms and financial instruments to further the goals of the program;

''(6) expedite the interagency review process and ensure timely review and dispersal of required reports and assessments under this Act; and

''(7) promote the development of new technologies for predicting, monitoring, and mitigating harmful algal blooms and hypoxia conditions.

''(c) LEAD FEDERAL AGENCY.—NOAA shall be the lead Federal agency for implementing and administering the National Harmful Algal Bloom and Hypoxia Program.

''(d) RESPONSIBILITIES.—The Program shall—

''(1) promote a national strategy to help communities understand, detect, predict, control, and mitigate freshwater and marine harmful algal bloom and hypoxia events;

''(2) plan, coordinate, and implement the National Harmful Algal Bloom and Hypoxia Program; and

''(3) report to the Task Force via the Administrator.

''(e) DUTIES.—

''(1) ADMINISTRATIVE DUTIES.—The Program shall—

''(A) prepare work and spending plans for implementing the activities of the Program and developing and implementing the Regional Research and Action Plans and coordinate the preparation of related work and spending plans for the activities of other participating Federal agencies;

''(B) administer merit-based, competitive grant funding to support the projects maintained and established by the Program, and to address the research and management needs and priorities identified in the Regional Research and Action Plans;

''(C) coordinate NOAA programs that address harmful algal blooms and hypoxia and other ocean and Great Lakes science and management programs and centers that address the chemical, biological, and physical components of harmful algal blooms and hypoxia;

''(D) coordinate and work cooperatively with other Federal, State, and local government agencies and programs that address harmful algal blooms and hypoxia;

''(E) coordinate with the State Department to support international efforts on harmful algal bloom and hypoxia information sharing, research, mitigation, and control.''.

''(F) coordinate an outreach, education, and training program that integrates and augments existing programs to improve public education about and awareness of the causes, impacts, and mitigation efforts for harmful algal blooms and hypoxia;

''(G) facilitate and provide resources for training of State and local coastal and water resource managers in the methods and technologies for monitoring, controlling, and mitigating harmful algal blooms and hypoxia;

''(H) support regional efforts to control and mitigate outbreaks through—

''(i) communication of the contents of the Regional Research and Action Plans and maintenance of online data portals for other information about harmful algal blooms and hypoxia to State and local stakeholders within the region for which each plan is developed; and

''(ii) overseeing the development, review, and periodic updating of Regional Research and Action Plans established under section 603B;

''(I) convene an annual meeting of the Task Force; and

''(J) perform such other tasks as may be delegated by the Task Force.

''(2) PROGRAM DUTIES.—The Program shall—

''(A) maintain and enhance—

''(i) the Ecology and Oceanography of Harmful Algal Blooms Program;

''(ii) the Monitoring and Event Response for Harmful Algal Blooms Program;

''(iii) the Northern Gulf of Mexico Ecosystems and Hypoxia Assessment Program; and

''(iv) the Coastal Hypoxia Research Program;

''(B) establish—

''(i) a Mitigation and Control of Harmful Algal Blooms Program—

''(I) to develop and promote strategies for the prevention, mitigation, and control of harmful algal blooms; and

''(II) to fund research that may facilitate the prevention, mitigation, and control of harmful algal blooms; and

''(III) to develop and demonstrate technology that may mitigate and control harmful algal blooms; and

''(ii) other programs as necessary; and

''(C) work cooperatively with other offices, centers, and programs within NOAA and other agencies represented on the Task Force, States, and nongovernmental organizations concerned with marine and aquatic issues to manage data, products, and infractructure, including—

''(i) compiling, managing, and archiving data from relevant programs in Task Force member agencies;

''(ii) creating data portals for general education and data dissemination on centralized, publicly available databases; and

''(iii) establishing communication routes for data, predictions, and management tools both to and from the regions, states, and local communities.''.

SEC. 7. REGIONAL RESEARCH AND ACTION PLANS.

The Act, as amended by section 6, is amended by inserting after section 603A the following:

''SEC. 603B. REGIONAL RESEARCH AND ACTION PLANS.

''(a) IN GENERAL.—The Program shall—

''(1) oversee the development and implementation of Regional Research and Action Plans; and

''(2) identify appropriate regions and subregions to be addressed by each Regional Research and Action Plan.

''(b) REGIONAL PANELS OF EXPERTS.—As soon as practicable after the date of enactment of the Harmful Algal Blooms and Hypoxia Amendments Act of 2008, and every 5 years thereafter, the Program shall convene a panel of experts for each region identified under subsection (a)(2) from among—

''(1) State coastal management and planning officials;

''(2) water management and watershed officials from both coastal states and noncoastal states with water sources that drain into water bodies affected by harmful algal blooms and hypoxia;

''(3) public health officials;

''(4) emergency management officials;

''(5) nongovernmental organizations concerned with marine and aquatic issues;

''(6) science and technology development institutions;

''(7) economists;

''(8) industries and businesses affected by coastal and freshwater harmful algal blooms and hypoxia;

''(9) scientists, with expertise concerning harmful algal blooms or hypoxia, from academic or research institutions; and

''(10) other stakeholders as appropriate.

''(c) PLAN DEVELOPMENT.—Each regional panel of experts shall develop a Regional Research and Action Plan for its respective region and submit it to the Program for approval and to the Task Force. The Plan shall identify appropriate elements for the region, including—

''(1) baseline ecological, social, and economic research needed to understand the biological, physical, and chemical conditions that cause, exacerbate, and result from harmful algal blooms and hypoxia;

''(2) regional priorities for ecological and socio-economic research on issues related to, and impacts of, harmful algal blooms and hypoxia;

''(3) research needed to develop and advance technologies for improving capabilities to predict, monitor, prevent, control, and mitigate harmful algal blooms and hypoxia;

''(4) State and local government actions that may be implemented—

''(A) to support long-term monitoring efforts and emergency monitoring as needed;

''(B) to minimize the occurrence of harmful algal blooms and hypoxia;

''(C) to reduce the duration and intensity of harmful algal blooms and hypoxia in times of emergency;

''(D) to address human health dimensions of harmful algal blooms and hypoxia; and

''(E) to identify and protect vulnerable ecosystems that could be, or have been, affected by harmful algal blooms and hypoxia;

''(5) mechanisms by which data and products are transferred between the Program and State and local governments and research entities;

''(6) communication, outreach and information dissemination efforts that State and local governments and nongovernmental organizations can undertake to educate and inform the public concerning harmful algal blooms and hypoxia and alternative coastal resource-utilization opportunities that are available; and

''(7) pilot projects, if appropriate, that may be implemented on local, State, and regional scales to address the research priorities and response actions identified in the Plan.

''(d) PLAN TIMELINES; UPDATES.—The Program shall ensure that—

''(1) not less than 50 percent of the Regional Research and Action Plans developed under this section are completed and approved by the Program within 12 months after the date of enactment of the Harmful Algal Blooms and Hypoxia Amendments Act of 2008;

''(2) the remaining Regional Research and Action Plans are completed and approved by the Program within 24 months after such date of enactment; and

''(3) each Regional Research and Action Plan is updated no less frequently than once every 5 years.

''(e) FUNDING.—

''(1) IN GENERAL.—Subject to available appropriations, the Program shall make funding available to eligible organizations to implement the research, monitoring, forecasting, modeling, and response actions included under each approved Regional Research and Action Plan. The Program shall select recipients through a merit-based, competitive process and seek to fund research proposals that most effectively align with the research priorities identified in the relevant Regional Research and Action Plan.

''(2) APPLICATION; ASSURANCES.—Any organization seeking funding under this subsection shall submit an application to the Program at such time, in such form and manner, and containing such information and assurances as the Program may require. The Program shall require any organization receiving funds under this subsection to utilize the mechanisms described in subsection (c)(5) to ensure the transfer of data and products developed under the Plan.

''(3) ELIGIBLE ORGANIZATION.—In this subsection, the term 'eligible organization' means—

''(A) a nongovernmental researcher or organization; or

''(B) any other entity that applies for funding to implement the State, local, and nongovernmental control, mitigation, and prevention strategies identified in the relevant Regional Research and Action Plan.

''(f) EMERGENCY REVIEWS.—If the Program determines that an intermediate review is necessary to address emergent needs in harmful algal blooms and hypoxia under a Regional Research and Action Plan, it shall notify the Task Force and reconvene the relevant regional panel of experts for the purpose of revising the Regional Research and Action Plan so as to address the emergent threat or need.''.

SEC. 8. REPORTING.

Section 603, as amended by section 5, is amended by adding at the end thereof the following:

''(k) BIANNUAL REPORTS.—The Program shall prepare biannual reports for the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Natural Resources that describe—

''(1) activities, budgets, and progress on implementing the national harmful algal bloom and hypoxia program;

''(2) the proceedings of the annual Task Force meeting; and

''(3) the status, activities, and funding for implementation of the Regional Research

and Action Plans, including a description of research funded under the program and actions and outcomes of Plan response strategies carried out by States.

''(1) QUINQUENNIAL REPORTS.—

''(1) HARMFUL ALGAL BLOOM AND HYPOXIA ASSESSMENTS.—Not less than once every 5 years after the date of enactment of the Harmful Algal Blooms and Hypoxia Amendments Act of 2008, the Task Force shall prepare a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Natural Resources that—

''(A) describes the state of knowledge on harmful algal blooms and hypoxia in marine and freshwater systems, including the causes and ecological consequences;

''(B) describes the social and economic impacts of harmful algal blooms and hypoxia and strategies for their minimization and mitigation;

''(C) describes the human health impacts of harmful algal blooms and hypoxia, including any gaps in existing research;

''(D) describes progress on developing technologies and advancing capabilities for monitoring, forecasting, modeling, control, mitigation, and prevention of harmful algal blooms and hypoxia and implementation of strategies for achieving these goals;

''(E) describes progress on, and techniques for, integrating landscape- and watershed-level water quality information into marine and freshwater harmful algal bloom and hypoxia prevention and mitigation strategies, including projects at the Federal and regional levels;

''(F) describes communication, outreach, and education efforts to raise public awareness of harmful algal blooms and hypoxia, their impacts, and the methods for mitigation and prevention;

''(G) includes recommendations for integrating and improving future national, regional, State, and local policies and strategies for preventing and mitigating the occurrence and impacts of harmful algal blooms and hypoxia; and

''(H) describes impacts of harmful algal blooms and hypoxia on coastal communities and a review of those communities' efforts and associated economic costs related to event forecasting, planning, mitigation, response, and public outreach and education.

''(2) PUBLIC COMMENT.—At least 90 days before submitting the report to Congress, the Secretary shall publish the draft report in the Federal Register for a comment period of not less than 60 days.''.

SEC. 9. PILOT PROGRAM FOR FRESHWATER HARMFUL ALGAL BLOOMS AND HYPOXIA.

The Act, as amended by section 7, is amended by inserting after section 603B the following:

''SEC. 603C. PILOT PROGRAM FOR FRESHWATER HARMFUL ALGAL BLOOMS AND HYPOXIA.

''(a) PILOT PROGRAM.—The Secretary shall establish a collaborative pilot program with the Environmental Protection Agency and other appropriate Federal agencies to examine harmful algal blooms and hypoxia occurring in freshwater systems. The pilot program shall—

''(1) be established in the Mississippi River Basin watershed;

''(2) assess the issues associated with, and impacts of, harful algal blooms and hypoxia in freshwater ecosystems;

''(3) research the efficacy of mitigation measures, including measures to reduce nutrient loading; and

''(4) recommend potential management solutions.

''(b) REPORT.—The Secretary of Commerce, in consultation with other participating Federal agencies, shall conduct an assessment of the effectiveness of the pilot program in improving freshwater habitat quality and publish a report, available to the public, of the results of the assessment.''.

SEC. 10. INTERAGENCY FINANCING.

The Act is amended by inserting after section 604 the following:

''SEC. 604A. INTERAGENCY FINANCING.

''The departments and agencies represented on the Task Force are authorized to participate in interagency financing and share, transfer, receive, obligate, and expend funds appropriated to any member of the Task Force for the purposes of carrying out any administrative or programmatic project or activity under this Act, including support for the Program, a common infrastructure, information sharing, and system integration for harmful algal bloom and hypoxia research, monitoring, forecasting, prevention, and control. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Task Force member and the costs of the same.''.

SEC. 11. APPLICATION WITH OTHER LAWS.

The Act is amended by inserting after section 606 the following:

''SEC. 607. EFFECT ON OTHER FEDERAL AUTHORITY.

''Nothing in this title supersedes or limits the authority of any agency to carry out its responsibilities and missions under other laws.''.

SEC. 12. DEFINITIONS.

(a) IN GENERAL.—The Act is amended by inserting after section 605 the following:

''SEC. 605A. DEFINITIONS.

''In this Act:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the NOAA.

''(2) HARMFUL ALGAL BLOOM.—The term 'harmful algal bloom' means marine and freshwater phytoplankton that proliferate to high concentrations, resulting in nuisance conditions or harmful impacts on marine and aquatic ecosystems, coastal communities, and human health through the production of toxic compounds or other biological, chemical, and physical impacts of the algae outbreak.

''(3) HYPOXIA.—The term 'hypoxia' means a condition where low dissolved oxygen in aquatic systems causes stress or death to resident organisms.

''(4) NOAA.—The term 'NOAA' means the National Oceanic and Atmospheric Administration.

''(5) PROGRAM.—The term 'Program' means the integrated harmful algal bloom and hypoxia program established under section 603B.

''(6) REGIONAL RESEARCH AND ACTION PLAN.—The term 'Regional Research and Action Plan' means a plan established under section 603B.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Commerce, acting through NOAA.''.

''(8) TASK FORCE.—The term 'Task Force' means the Interagency Task Force established by section 603(a).

''(9) UNITED STATES COASTAL WATERS.—The term 'United States coastal waters' includes the Great Lakes.''.

(b) CONFORMING AMENDMENT.—Section 603(a) is amended by striking ''Hypoxia (hereinafter referred to as the 'Task force').'' and inserting ''Hypoxia.''.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

Section 605 is amended to read as follows:—

''SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to NOAA to implement the Program under this title—

''(1) $30,000,000 for each of fiscal years 2009 and 2010; and

''(2) $70,000,000 for each of fiscal years 2011, 2012, and 2013.The Secretary shall ensure that a substantial portion of funds appropriated pursuant to this subsection that are used for research purposes are allocated to extramural research activities.

''(b) REGIONAL RESEARCH AND ACTION PLANS.—In addition to any amounts appropriated pursuant to subsection (a), there are authorized to be appropriated to NOAA to develop and revise the Regional Research and Action Plans, $40,000,000 for each of fiscal years 2009 and 2010, such sums to remain available until expended.

''(c) PILOT PROGRAM.—In addition to any amounts appropriated pursuant to subsection (a), there are authorized to be appropriated to NOAA such sums as may be necessary to carry out the pilot program established under section 603C.''.

Mr. NELSON of Florida. Mr. President, I rise today to introduce legislation that will address an ongoing problem that adversely affects local communities and coastal areas around my home State of Florida and across coastal States nationwide.

Today, Senator SNOWE and I, along with Senators CANTWELL, KERRY, VITTER, LEVIN, VOINOVICH, BOXER, CARDIN, and MIKULSKI, are introducing a bill that would reauthorize and enhance the Harmful Algal Bloom and Hypoxia Research and Control Act, HABHRCA, which was enacted in 1998 and reauthorized 4 years ago. This act has enabled critical monitoring, forecasting, and research activities that have greatly improved our understanding and prediction of harmful algal blooms, nuisance blooms like red drift, and low-oxygen or hypoxia events that plague our estuaries and coastal waters.

While the accomplishments made to date through HABHRCA are certainly valuable and to be commended, more work lies ahead. In Florida, harmful algal blooms, including red tides, and frequent red drift events continue to occur along our coasts.

According to experts from Mote Marine Laboratory in Sarasota, most of Florida's red tides are caused by a microscopic algae called *Karenia brevis*, which creates blooms that can last for months and cover hundreds of square miles. What makes this organism so harmful are the toxins it produces. These toxins can kill fish, birds, and other marine animals. For humans, the toxins trigger respiratory problems, eye and skin irritation, and shellfish poisoning when the toxins accumulate in oysters and clams. When these blooms die, the decomposing algae strip oxygen from the water column. These hypoxic conditions deprive fish, manatees, and other animal species of the oxygen they need to survive.

A particularly devastating and intense red tide struck the Florida gulf coast in the summer of 2005, causing widespread animal deaths and public health and economic problems. The St.

Petersburg/Clearwater Area Convention and Visitors Bureau estimated upwards of $240 million in losses for the Tampa region as a result of this bloom.

Scientists have told us that red tides are a lot like hurricanes complex but natural phenomena that can have profound impacts on our environment and society. Although we may not be able to stop this natural process, we can do more to predict it and take actions to minimize its impacts on our citizens and natural resources.

While red drift algae lack the toxins associated with red tide, they can nonetheless cause enormous problems along Florida's beaches. We have had numerous red drift events in Florida over the last few years. In March 2007, some witnesses described clumps of red drift algae the size of hay bales floating on the surface of the Gulf of Mexico, and washing onshore from Fort Myers to Anna Maria Island. Scientists have also been looking into whether nutrients from the decomposing algae may feed subsequent blooms, keeping local waters in a terrible cycle.

Other algal blooms are impairing waterways and causing social and economic problems in my state. Earlier this month, a water treatment plant on the Caloosahatchee River in Lee County had to be closed temporarily due to a bloom of blue-green algae.

It is clear that harmful algal blooms and hypoxia events can have devastating impacts on water and air quality, aquatic species, wildlife, and beach conditions, which in turn affect public health, commercial and recreational fishing, tourism, and related businesses in our coastal communities. The question becomes, what can we do to stop this? If we can't stop these events, how can we better plan for them and take steps to minimize the impacts?

We have learned from scientists and researchers, many of whom were funded by HABHRCA-authorized programs, that some harmful algal blooms and red drift events can be triggered by excess nutrients from upland areas that wash into rivers and are delivered to the coast. Because this problem often crosses political and geographic boundaries, we must pursue solutions that are regional in nature and bring together expertise from all levels of government, from academia, and from other outside groups who have a stake in keeping our coastal waters healthy, clean, and productive.

Senator SNOWE and I have worked together to craft a bill that will not only continue critical research on harmful algal blooms and hypoxia, but help address some of these pressing needs that exist on every coast—from the Atlantic and Gulf of Mexico, to the Pacific and the Great Lakes. Our bill will help integrate and improve coordination among the government's programs that study and monitor these events. The bill would also improve how regional, state, and local needs are considered when prioritizing research grants and developing related products. Most importantly, this bill would focus new resources on translating research results into tools and products that state and local governments can use to help prevent, respond to, and mitigate the impacts of these events.

Although we have made significant progress in identifying some of the causes and consequences of harmful algal blooms and hypoxia since 1998, much work remains to find solutions that minimize the occurrence of these events and that enable our coastal communities to become resilient to the impacts. This legislation to amend and reauthorize the Harmful Algal Blooms and Hypoxia Act represents an important step toward realizing those goals.

In closing, I would like to recognize Senator SNOWE for her leadership on this issue. As the sponsor of both the original legislation in 1998 and the 2004 amendments, her expertise on harmful algal blooms and the impacts of these events on her constituents has proved invaluable as we developed the measure before us today. I look forward to working with Senator SNOWE, in her role as ranking member of the Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee of the Commerce, Science, and Transportation Committee, as well as with Chairman CANTWELL and the other members of our subcommittee, to debate this important legislation.

BY Mr. DURBIN:

S. 3197. A bill to amend title 11, United States Code, to exempt for a limited period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, when our National Guard and Reserve members return from active duty, the last thing they should have to worry about is struggling to catch up on the bills. Sadly, acute financial challenges are often exactly what greet our bravest men and women when they come home.

For those families who are struggling to make ends meet after serving our country, today I am introducing a bill, the National Guard and Reservists Debt Relief Act, that would give these families a little breathing room. My bill would waive the means test for entering into Chapter 7 bankruptcy protection for National Guard and Reserve members who have served since September 11, 2001. The bill would give these families a little more time to reorganize their finances so that they can get their lives back in order after serving.

The 2005 Bankruptcy Abuse Prevention and Consumer Protection Act changed the U.S. bankruptcy code to make it significantly harder for individuals to receive protection from their creditors via bankruptcy, by requiring filers to pass a means test based on an individual's income and expenses for the 6 month period preceding a bankruptcy filing.

My bill would exempt returning Guard and Reserve members from this means test, both because our finest men and women deserve greater financial protection and because they are uniquely disadvantaged by the means test criteria. Despite receiving much-deserved active duty pay for their service, National Guard and Reserve members often take a pay cut when they leave their jobs for a deployment. But because the means test includes the past 6 months of income in its calculation, men and women with little current income may not qualify for bankruptcy protection.

This is an issue that will become increasingly important in my home state of Illinois. The Illinois National Guard is preparing for the largest deployment of soldiers since World War II, with more than 2,700 currently training for deployment to Afghanistan. For the men and women in this group who find themselves in unfortunate financial circumstances when they return home, particularly if our economy continues to slow, this bill would help by allowing these men and women to file for bankruptcy if they desperately need that help.

I am pleased that the House version of this legislation, championed by my good friend Representative JAN SCHAKOWSKY, passed the House by voice vote earlier this week. I urge my Senate colleagues to support this bill just as strongly.

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 placed in the RECORD, as follows:

S. 3197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Guard and Reservists Debt Relief Act of 2008''.

SEC. 2. AMENDMENTS.

Section 707(b)(2)(D) of title 11, United States Code, is amended—

(1) in each of clauses (i) and (ii)—

(A) by indenting the left margins of such clauses 2 ems to the right; and

(B) by redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking ''if the debtor is a disabled veteran'' and inserting the following:

''if—

''(i) the debtor is a disabled veteran'';

(3) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(ii) while—

''(I) the debtor is—

''(aa) on, and during the 540-day period beginning immediately after the debtor is released from, a period of active duty (as defined in section 101(d)(1) of title 10) of not less than 90 days; or

''(bb) performing, and during the 540-day period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32) performed for a period of not less than 90 days; and

''(II) if, after September 11, 2001, the debtor while a member of a reserve component of the Armed Forces or a member of the National Guard, was called to such active duty or performed such homeland defense activity.''.

SEC. 3. GAO STUDY.

(a) COMPTROLLER GENERAL STUDY.—Not later than 2 years after the effective date of this Act, the Comptroller General shall complete and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a study of the use and the effects of the provisions of law amended (and as amended) by this Act. Such study shall address, at a minimum—

(1) whether and to what degree members of reserve components of the Armed Forces and members of the National Guard avail themselves of the benefits of such provisions,

(2) whether and to what degree such members are debtors in cases under title 11 of the United States Code that are substantially related to service that qualifies such members for the benefits of such provisions,

(3) whether and to what degree such members are debtors in cases under such title that are materially related to such service, and

(4) the effects that the use by such members of section 707(b)(2)(D) of such title, as amended by this Act, has on the bankruptcy system, creditors, and the debt-incurrence practices of such members.

(b) FACTORS.—For purposes of subsection (a)—

(1) a case shall be considered to be substantially related to the service of a member of a reserve component of the Armed Forces or a member of the National Guard that qualifies such member for the benefits of the provisions of law amended (and as amended) by this Act if more than 33 percent of the aggregate amount of the debts in such case is incurred as a direct or indirect result of such service,

(2) a case shall be considered to be materially related to the service of a member of a reserve component of the Armed Forces or a member of the National Guard that qualifies such member for the benefits of such provisions if more than 10 percent of the aggregate amount of the debts in such case is incurred as a direct or indirect result of such service, and

(3) the term ''effects'' means—

(A) with respect to the bankruptcy system and creditors—

(i) the number of cases under title 11 of the United States Code in which members of reserve components of the Armed Forces and members of the National Guard avail themselves of the benefits of such provisions,

(ii) the aggregate amount of debt in such cases,

(iii) the aggregate amount of debt of such members discharged in cases under chapter 7 of such title,

(iv) the aggregate amount of debt of such members in cases under chapter 7 of such title as of the time such cases are converted to cases under chapter 13 of such title,

(v) the amount of resources expended by the bankruptcy courts and by the bankruptcy trustees, stated separately, in cases under title 11 of the United States Code in which such members avail themselves of the benefits of such provisions, and

(vi) whether and to what extent there is any indicia of abuse or potential abuse of such provisions, and

(B) with respect to debt-incurrence practices—

(i) any increase in the average levels of debt incurred by such members before, during, or after such service,

(ii) any indicia of changes in debt-incurrence practices adopted by such members in anticipation of benefitting from such provisions in any potential case under such title; and

(iii) any indicia of abuse or potential abuse of such provisions reflected in the debt-incurrence of such members.

SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code in the 3-year period beginning on the effective date of this Act.

BY Mr. SMITH (for himself and Mr. DODD):

S. 3195. A bill to provide assistance to adolescents and young adults with serious mental health disorders as they transition to adulthood; to the Committee on Health, Education, Labor, and Pensions. I

Mr. SMITH. Mr. President, I rise today with my colleague Senator DODD to introduce a bill that will have a tremendous impact on millions of young adults in America who will suffer from mental illness in their lifetime. The Healthy Transition Act of 2008 is an important bill and I look forward to its passage.

Senator DODD has been an ardent champion for children, and as the Sponsor of the Garrett Lee Smith Memorial Act in 2004 and the bill to reauthorize the successful grant program again last year, it has been an honor to work with him to ensure our Nation's youth and their mental health needs are not forgotten.

I want to begin by thanking my colleague Representative PETE STARK for working with me on this important issue and for joining me in requesting a report by the Government Accountability Office,GAO last year on the barriers facing youth with serious mental health disorders as they age into adulthood. It has been a pleasure to work with him on drafting legislation that we will introduce today as I know he shares a passion for improving the lives of our children and young adults.

This time in a young person's life is so difficult with the pressures of being independent, finding a first job, going to college and really discovering who you are. For so many of our Nation's youth this time is made so much more difficult by their struggle with mental illness. My son Garrett struggled with his transition to adulthood and in his ability to access the help he needed during this critical time. These young adults deserve our attention, our support and our compassion.

Finally, I want to thank the many stakeholders and advocates that have put so much time and dedication into working with us to introduce this bill, the Healthy Transition Act of 2008. They include the National Alliance on Mental Illness, the Children's Defense Fund, the National Federation of Families for Children's Mental Health, the Bazelon Center for Mental Health Law, and the American Psychological Association, just to name a few.

The findings of the GAO report that Congressman STARK and I requested, tells us that at least 2.4 million young adults aged 18–26 had a mental illness in 2006. We know that this number could be greatly understated as it does not count young adults who are institutionalized, incarcerated or homeless—all of which are groups that are known to have higher rates of mental illness.

These young people have such tremendous challenges that cause them to demonstrate lower rates of high school graduation and college attendance than their peers who do not suffer from mental illness. They also have lower propensity to find employment and remain stable in their communities. In my home State of Oregon, this transition-age population was found to be 80 percent less likely than any other population in the State with mental health needs to receive services.

However, from this report, and the work innovative States are doing to support our young people, we know that we can do a better job of helping these youth. We can do better at ensuring they can remain stable in their communities, that they can live healthy lives, and that they can prosper as adults.

The bill that Senator DODD, Representative STARK and I are introducing today will support States that want to do better for our Nation's young adults with mental illness. As the GAO found, too often services are not directed at this population or young adults are shoved into a system that was designed for a different age group with different needs.

Our bill, the Healthy Transition Act of 2008, will provide grants to States to first develop statewide coordination plans to assist adolescents and young adults with a serious mental health disorder to acquire the skills and resources they need to make a healthy transition to adulthood. After this plan has been submitted and evaluated by SAMHSA, States may then compete for a second round of grants to help them implement the plan that they have made.

Lastly, this bill will develop a Committee of Federal Partners that will coordinate service programs that assist adolescents and young adults with mental illness at the federal level and provide technical assistance to States as they implement their plans. They also will report to Congress on their activities so that we can ensure they are doing their best to make sure these vulnerable young adults get the help and support they need.

This is such a critical time in a person's life and I look forward to continuing to work with my colleagues to make sure it is as healthy and positive an experience as it can be. I look forward to working with my colleagues to ensure its passage. I urge my colleagues on both sides of the aisle to support the bill.

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. 3195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Healthy Transition Act of 2008''.

SEC. 2. HEALTHY TRANSITIONING FOR YOUTH.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb-31 et seq.) is amended by adding at the end the following:

''SEC. 520K. HEALTHY TRANSITIONING FOR YOUTH.

''(a) PLANNING GRANTS.—

''(1) IN GENERAL.—The Secretary, in consultation with the agencies described in subsection (c)(3), shall award grants or cooperative agreements to States to develop plans for the statewide coordination of services to assist adolescents and young adults with a serious mental health disorder in acquiring the skills, knowledge, and resources necessary to ensure their healthy transition to successful adult roles and responsibilities.

''(2) APPLICATION.—To be eligible for a grant or cooperative agreement under this subsection, a State shall submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

''(3) PLAN.—Not later than 18 months after the receipt of a grant or cooperative agreement under this subsection, a State shall submit to the Secretary a State plan that shall include—

''(A) reliable estimates on the number of adolescents and young adults with serious mental health disorders in the State;

''(B) information on the youth targeted under this Act, including—

''(i) the number of adolescents and young adults with serious mental health disorders in the State and the number of such individuals who are currently being served in the State;

''(ii) the number of such individuals who are receiving mental health services provided by State agencies other than the agency responsible for mental health services in the State;

''(iii) the number of youth with serious mental health disorders who are involved in the juvenile justice system in the State;

''(iv) the number of youth with serious mental health disorders who are involved in the child protection system in the State;

''(v) the number of youth with serious mental health disorders who have plans in effect under the Individuals with Disabilities Education Act in the State;

''(vi) the number of youth with serious mental health disorders who are involved in vocational rehabilitation in the State;

''(vii) the range of ages served by the programs described in clauses (i) through (vi);

''(viii) a description of the overall transition coordination that is currently provided by the State or local authorities and programs in the State;

''(C) an identification of the skills, knowledge, and resources that adolescents and young adults with serious mental health disorders in the State will need to ensure their successful and healthy transition into adult roles and responsibilities;

''(D) an identification of the obstacles that adolescents and young adults with serious mental health disorders in the State encounter while transitioning into adult roles and responsibilities, including breaks in service or programs caused by eligibility and program criteria differences between the child and adult mental health systems and the lack of local access to mental health and transition services;

''(E) an identification of the current level, type, quality, effectiveness, and availability of services, including evidence-based practices, available in the State that are uniquely designed for adolescents and young adults with a serious mental health disorder to ensure a healthy transition to successful adult roles and responsibilities;

''(F) an identification of adolescents and young adults with a serious emotional disorder who have a low likelihood of a healthy and successful transition due to the severity of their illness, and an identification of how the State will provide treatment and other support services to this population;

''(G) an analyses of the strengths, weaknesses, and gaps of the current system in the State, including the availability of lack of mental health professionals trained to treat adolescents and young adults with a serious mental health disorder, as well as barriers, to address the needs of adolescents and young adults with a serious mental health disorder with an appropriate array of effective services and supports;

''(H) a description of how the State will improve the system of care to ensure successful and healthy transitions;

''(I) a description of how the State will coordinate the services of State and non-State agencies that serve adolescents and young adults with a serious mental health disorder;

''(J) a description of how the State will provide a system of coordinated service delivery under the grant or cooperative agreement that will address the effective services, supports, and unique needs of adolescents and young adults with a serious mental disorder, including those who have been placed in out of home settings such as the juvenile justice system or those who are or were involved in the child protection systems;

''(K) a description of how the State will coordinate efforts under the grant or cooperative agreement with existing services and systems in the State that focus on life skills necessary for a healthy transition including health, employment and pre-employment training, transportation, housing, recreation, mental health services, substance abuse, vocational rehabilitation services for persons with disabilities, and training for adolescents, young adults and adults, consumers and their families;

''(L) a description of how the State will work to build workforce capacity to serve the population described in subparagraph (J);

''(M) a description of how the State will reach out to the target population pre-transition, during transition, and post-transition;

''(N) a description of how the State is currently utilizing and leveraging (and how the State will use and leverage) Federal funding streams to care for the target population, including funding through Medicaid, the Department of Housing and Urban Development, the Department of Labor though supported employment, the Early and Periodic Screening, Diagnosis, and Treatment Program, and other programs, and including an outline of the barriers the State faces in making Federal funding flow to the targeted population in a coordinated manner;

''(O) a description of how the State will involve adolescents and young adults with serious mental health disorders and their families and guardians in the service design, planning, and implementation of the plan under the grant or cooperative agreement;

''(P) an implementation subplan that shall be designed to recognize the challenges of implementing a program between communities at a statewide level and how the State will overcome those challenges;

''(Q) a description of how the State plans to evaluate outcomes under the program funded under the grant or cooperative agreement;

''(R) a designation of the State office that will be the lead agency responsible for administering the program under the grant or cooperative agreement;

''(S) a description of how the State will ensure that the activities planned under the grant or cooperative agreement will remain sustainable at the end of the cycle of Federal funding under this section; and

''(T) any other information determined appropriate by the Secretary.

''(4) DURATION OF SUPPORT.—The duration of a grant or cooperative agreement under this subsection shall not exceed 2 fiscal years.

''(5) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and training in the development of the plan under paragraph (3), including convening a meeting of potential applicants for grants or cooperative agreement under this subsection.

''(6) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection, $6,000,000 for fiscal year 2009, and such sums as may be necessary for each of fiscal years 2010 through 2013.

''(B) TECHNICAL ASSISTANCE.—The Secretary shall make available 15 percent of the amount appropriated under subparagraph (A) in each fiscal year for technical assistance under paragraph (5)

''(b) IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Secretary shall award grants or cooperative agreement to eligible States for the coordination of services to assist adolescents and young adults with serious mental health disorders in acquiring the services, skills, and knowledge necessary to ensure their healthy transition to successful adult roles and responsibilities.

''(2) ELIGIBILITY.—To be eligible for a grant or cooperative agreement under paragraph (1), a State shall—

''(A) be a State that has received a grant or cooperative agreement under subsection (a) and submitted a plan that meets the requirements of paragraph (3) of such subsection; or

''(B) be a State that has not received such a grant or cooperative agreement but that has a plan that is equivalent to the plan required under subsection (a)(3).

''(3) APPLICATION.—To be eligible for a grant or cooperative agreement under this subsection, a State shall submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary requires, including—

''(A) a copy of the plan submitted under subsection (a)(3), or in the case of a State described in paragraph (2)(B), a plan that is equivalent to the plan required under subsection (a)(3);

''(B) a list of the State agencies that will participate in the program to be funded under the grant or cooperative agreement along with written verification as to the commitment of such agencies to the program;

''(C) an assurance that the State will develop a coordinating committee composed of representatives of the participating State agencies, as well as consumers and families of consumers;

''(D) a description of the role of such coordinating committee; and

''(E) the names of at least two local communities that will implement the program at the local level and how those communities will implement the State plan.

''(4) USE OF FUNDS.—Funds provided under a grant or cooperative agreement under this subsection shall be used to implement the State plan, including—

''(A) facilitating a youth ombudsman or other advocacy program;

''(B) facilitating peer support programs and networks within the State;

''(C) facilitating access to independent living and life skills supports;

''(D) developing infrastructure to support access to necessary health, mental health, employment, education, and housing supports; and

''(E) facilitating the training of support providers and workforce capacity to serve the target population.

''(5) DURATION OF SUPPORT.—The duration of a grant or cooperative agreement under this subsection shall not exceed 5 fiscal years.

''(6) MATCHING REQUIREMENT.—

''(A) IN GENERAL.—To be eligible for a grant or cooperative agreement under this subsection, the State shall agree that, with respect to the costs to be incurred by the State in carrying out activities under the grant or cooperative agreement, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

''(i) for the first fiscal year for which the State receives payments under the grant or cooperative agreement, is not less than $1 for each $3 of Federal funds provided under the grant or cooperative agreement;

''(ii) for any second or third such fiscal year, is not less than $1 for each $2 of Federal funds provided under the grant or cooperative agreement;

''(iii) for any fourth such fiscal year, is not less than $1 for each $1 of Federal funds provided under the grant or cooperative agreement; and

''(iv) for any fifth such fiscal year, is not less than $2 for each $1 of Federal funds provided under the grant or cooperative agreement.

''(B) DETERMINATION OF AMOUNT CONTRIBUTED.—

''(i) IN GENERAL.—Non-Federal contributions required under subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(ii) NON-FEDERAL CONTRIBUTIONS.—In making a determination of the amount of non-Federal contributions for purposes of clause (i), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose of the grant or cooperative agreement under this subsection for the 2-year period preceding the first fiscal year for which the State receives a grant or cooperative agreement under such subsection.

''(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and training to recipients of grants or cooperative agreements under this subsection, including convening meetings each year to identify ways of improving State programs. Such meetings shall include the members of the Federal Partners Committee under subsection (c).

''(8) EVALUATION.—The Secretary shall carry out a cross-site evaluation that—

''(A) reports on current State efforts to transition the population involved prior to the implementation of the State plans under this section; and

''(B) evaluates the program carried out by the State under this section to determine the effectiveness of such program in meeting its goals and objectives as compared with current approaches.

''(9) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection, $6,000,000 for each of fiscal years 2009 and 2010, $15,000,000 for fiscal year 2011, $20,000,000 for fiscal year 2012, and $25,000,000 for fiscal year 2013.

''(B) TECHNICAL ASSISTANCE AND EVALUATION.—The Secretary shall make available 15 percent of the amount appropriated under subparagraph (A), or $2,000,000 whichever is greater, in each fiscal year for technical assistance under paragraph (7) and the evaluation under paragraph (8).

''(c) FEDERAL PARTNERS.—

''(1) IN GENERAL.—The Secretary shall designate an existing Federal entity, or establish a Committee of Federal Partners, to coordinate service programs to assist adolescents and young adults with serious mental health disorders in acquiring the knowledge and skills necessary for them to transition into adult roles and responsibilities.

''(2) EXISTING FEDERAL ENTITY.—If the Secretary elects to utilize an existing Federal entity under paragraph (1), the Secretary shall ensure that—

''(A) such entity is comprised of representatives of at least the agencies described in paragraph (3); and

''(B) such entity shall give special attention to the knowledge and skills needed by adolescents and young adults with mental health disorders in coordinating the programs funded under this section.

''(3) MEMBERSHIP.—A Federal entity utilized under this subsection, or a committee established under paragraph (1), shall include representatives of—

''(A) the Department of Education (or any subagency of the Department);

''(B) the Department of Health and Human Services (or any subagency of the Department);

''(C) the Department of Labor (or any subagency of the Department);

''(D) the Department of Transportation (or any subagency of the Department);

''(E) the Department of Housing and Urban Development (or any subagency of the Department);

''(F) the Department of Interior (or any subagency of the Department);

''(G) the Department of Justice (or any subagency of the Department);

''(H) the Social Security Administration;

''(I) an organization representing consumers and families of consumers as designated by the Secretary; and

''(J) an organization representing mental health and behavioral health professionals as designated by the Secretary.

''(4) ROLE OF ENTITY OR COMMITTEE.—The Federal entity or committee designated or established under paragraph (1) shall review how Federal programs and efforts that address issues related to the transition of adolescents and young adults with serious mental health disorders may be coordinated to ensure the maximum benefit for the individuals being served and to provide technical assistance to the States who are planning or implementing programs under this section.

''(5) REPORT.—Not later than 18 months after the date of enactment of this Act, the Federal entity or committee designated or established under paragraph (1) shall submit to the appropriate committees of Congress, and make available to the general public, a report concerning the participation of Federal agencies and stakeholders in the planning and operations of the entity or committee. Such report shall also contain a description of the status of the efforts of such entity or committee in coordinating Federal efforts on behalf of the target population.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $1,000,000 for fiscal year 2009, and such sums as may be necessary for each of fiscal years 2010 through 2013.

''(d) DEFINITION.—In this section, the term 'serious mental health disorder' has the meaning given the term 'serious mental illness' by the Administrator for purposes of this title.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 601—DESIGNATING OCTOBER 19 THROUGH OCTOBER 25, 2008, AS ''NATIONAL SAVE FOR RETIREMENT WEEK''

Mr. SMITH (for himself and Mr. CONRAD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES 601

Whereas Americans are living longer and the cost of retirement continues to rise, in part because the number of employers providing retiree health coverage continues to decline, and retiree health care costs continue to increase at a rapid pace;

Whereas Social Security remains the bedrock of retirement income for the great majority of the people of the United States, but was never intended by Congress to be the sole source of retirement income for families;

Whereas recent data from the Employee Benefit Research Institute indicates that, in the United States, less than ⅔ of workers or their spouses are currently saving for retirement, and that the actual amount of retirement savings of workers lags far behind the amount that will be needed to adequately fund their retirement years;

Whereas many workers may not be aware of their options for saving for retirement or may not have focused on the importance of, and need for, saving for their own retirement;

Whereas many employees have available to them through their employers access to defined benefit and defined contribution plans to assist them in preparing for retirement, yet many of them may not be taking advantage of employer-sponsored defined contribution plans at all or to the full extent allowed by the plans as prescribed by Federal law; and

Whereas all workers, including public- and private-sector employees, employees of tax-exempt organizations, and self-employed individuals, can benefit from increased awareness of the need to save adequate funds for retirement and the availability of preferred savings vehicles to assist them in saving for retirement: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 19 through October 25, 2008, as ''National Save for Retirement Week'';

(2) supports the goals and ideals of National Save for Retirement Week;

(3) supports the need to raise public awareness of efficiently utilizing substantial tax revenues that currently subsidize retirement savings, revenues in excess of $170,000,000,000 for the fiscal year 2007 budget;

(4) supports the need to raise public awareness of the importance of saving adequately for retirement and the availability of tax-preferred employer-sponsored retirement savings vehicles; and

(5) calls on States, localities, schools, universities, nonprofit organizations, businesses, other entities, and the people of the United States to observe this week with appropriate programs and activities with the goal of increasing retirement savings for all the people of the United States.

SENATE RESOLUTION 602—A BILL SUPPORTING THE GOALS AND IDEALS OF ''NATIONAL LIFE INSURANCE AWARENESS MONTH''

Mr. NELSON of Nebraska (for himself, Mr. CHAMBLISS, Mr. WHITEHOUSE, Mr. JOHNSON, and Mr. SMITH) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 602

Whereas life insurance is an essential part of a sound financial plan;

Whereas life insurance provides financial security for families by helping surviving members meet immediate and long-term financial obligations and objectives in the event of a premature death in their family;

Whereas approximately 68,000,000 United States citizens lack the adequate level of life insurance coverage needed to ensure a secure financial future for their loved ones;

Whereas life insurance products protect against the uncertainties of life by enabling individuals and families to manage the financial risks of premature death, disability, and long-term care; and

Whereas numerous groups supporting life insurance have designated September 2008 as ''National Life Insurance Awareness Month'' to encourage consumers to take the actions necessary to achieve financial security for their loved ones: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of ''National Life Insurance Awareness Month''; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, and the citizens of the United States to observe the month with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5057. Mr. CRAIG (for himself, Mr. CRAPO, Mr. SMITH, Mr. DOMENICI, Mr. STEVENS, Ms. MURKOWSKI, Mr. BENNETT, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table.

SA 5058. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 6304, to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes; which was ordered to lie on the table.

SA 5059. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 6304, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5057. Mr. CRAIG (for himself, Mr. CRAPO, Mr. SMITH, Mr. DOMENICI, Mr. STEVENS, Ms. MURKOWSKI, Mr. BENNETT, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REAUTHORIZATION OF THE SECURE RURAL SCHOOLS PROGRAM.

The Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note) is amended—

(1) in section 208—

(A) in the first sentence, by striking ''2007'' and inserting ''2008''; and

(B) in the second sentence, by striking ''2008'' and inserting ''2009''; and

(2) in section 303—

(A) in the first sentence, by striking ''2007'' and inserting ''2008''; and

(B) in the second sentence, by striking ''2008'' and inserting ''2009''.

SA 5058. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 6304, to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, strike lines 19 through 24, and insert the following:

(1) IN GENERAL.—Except as provided in section 404, effective December 31, 2011, title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101(a), is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Effective December 31, 2011—

SA 5059. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 6304, to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, strike lines 17 through 21 and insert the following:

''(1) REVIEW OF CERTIFICATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a certification under subsection (a) shall be given effect unless the court finds that such certification is not supported by substantial evidence provided to the court pursuant to this section.

''(B) COVERED CIVIL ACTIONS.—In a covered civil action relating to assistance alleged to have been provided in connection with an intelligence activity involving communications that was authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007, a certification under subsection (a) shall be given effect unless the court—

''(i) finds that such certification is not supported by substantial evidence provided to the court pursuant to this section; or

''(ii) determines that the assistance provided by the applicable electronic communication service provider was provided in connection with an intelligence activity that violated the Constitution of the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 25, 2008, at 2:30 p.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 25, 2008, at 2:30 p.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate in order to conduct a hearing on Wednesday, June 25, 2008, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

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

COMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, June 25, 2008 at 10 a.m., in room 406 of the Dirksen Senate Office Building to conduct a hearing entitled ''Future Federal Role for Surface Transportation.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 25, 2008, at 9:30 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 25, 2008, at 2:30 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental

Affairs be authorized to meet during the session of the Senate on Wednesday, June 25, 2008, at 10 a.m.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on Wednesday, June 25, 2008, beginning at 10 a.m., in room 428A of the Russell Senate Office Building.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on the Constitution, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Laptop Searches and Other Violations of Privacy Faced by Americans Returning from Overseas Travel'' on Wednesday, June 25, 2008, at 9 a.m., in room SD–226 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that the following staff of the Finance Committee be granted the privilege of the floor for the duration of the debate on the Housing and Economic Recovery Act of 2008: Bridget Mallon, Damian Kudelka, Jeremiah Langston, Mike Unden, Thea Murray, Matt Smith, Tom Louthan, and Mary Baker.

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

AMENDING THE WATER RESOURCES DEVELOPMENT ACT OF 2007

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 6040.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 6040) to amend the Water Resources Development Act of 2007 to clarify the authority of the Secretary of the Army to provide reimbursement for travel expenses incurred by members of the Committee on Levee Safety.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 6040) was ordered to a third reading, was read the third time, and passed.

PROGRAM

Mr. REID. Mr. President, we are going to come in tomorrow and see what we can get accomplished. I believe we can get a few things done. I have already outlined what we need to do before we leave. With some cooperation we can get that done. If not—as I said here about a half hour ago, 45 minutes ago—if people want to play out this clock, people will have to be here Friday and Saturday. I hope that would be it, but we will have to wait and see. In that the Fourth of July doesn't occur until a week after we leave here anyway, people should keep in mind that there may be a need for us to work the next few days. I hope that is not necessary. We will have to see what happens. It is a shame.

I know we talked about the fact that we need to complete the housing bill, but we will complete that the first week we get back. By then Senators DODD and SHELBY maybe will have more things worked out with the House.

ORDERS FOR THURSDAY, JUNE 26, 2008

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Thursday, June 26; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the motion to proceed to H.R. 6304, the FISA legislation, and the time during the adjournment count postcloture. I further ask that Senator MURKOWSKI, or designee, control the time from 1:30 to 2:15 p.m. tomorrow, and that the time count postcloture.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:42 p.m., adjourned until Thursday, June 26, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

MICHAEL BRUCE DONLEY, OF VIRGINIA, TO BE SECRETARY OF THE AIR FORCE, VICE MICHAEL W. WYNNE, RESIGNED.

SOCIAL SECURITY ADMINISTRATION

JASON J. FICHTNER, OF VIRGINIA, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPIRING JANUARY 19, 2013, VICE ANDREW G. BIGGS, RESIGNED.

GENERAL SERVICES ADMINISTRATION

JAMES A. WILLIAMS, OF VIRGINIA, TO BE ADMINISTRATOR OF GENERAL SERVICES, VICE LURITA ALEXIS DOAN, RESIGNED.

SMALL BUSINESS ADMINISTRATION

SANTANU K. BARUAH, OF OREGON, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, VICE STEVEN C. PRESTON, RESIGNED.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIG. GEN. MATTHEW L. KAMBIC

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JOHN D. MUTHER