United States
of America

Congressional Record

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

Vol. 154 WASHINGTON, MONDAY, FEBRUARY 4, 2008 *No. 17*

House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, February 6, 2008, at 2 p.m.

Senate

MONDAY, FEBRUARY 4, 2008

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the State of Virginia.

PRAYER

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

Let us pray.

Eternal Spirit, grant to this Nation and to all people a social conscience built on the vision of the ancient prophets, who saw sufficiency for every person at a time when anxiety and fear would be overcome by good will.

Lord, hasten the day when the small and weak can make their contributions alongside the great and powerful. Lead us to the day when we will see peace among the nations of the Earth.

Today, use the Members of this body to bring us to the time when wealth devoted to war can be channeled into paths of peace. Let Your glory cover the Earth as the waters cover the sea.

We pray this in the Name of Him who deserves praise, honor, and glory, world without end. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB 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, February 4, 2008.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE CHAPLAIN'S PRAYER

Mr. REID. Mr. President, as the prayer was being delivered by our Chaplain, I was here at my place, along with Senator BOXER. During the prayer, Senator BOXER said, ''Wow.'' That really was a ''wow'' prayer—a prayer that called for peace and understanding. I wish I could recite it from memory, as the good Chaplain did, with his great ability to restate things that have been said. We really appreciated that prayer. I was very impressed, as I am so often, by the thoughtfulness of this prayer. This was a prayer which could have been uttered in a synagogue, in a Catholic mass, or any religious gathering in the world. This would have been fitting for any of them.

We are very fortunate to have this retired admiral, who came to the Senate in his capacity as our Chaplain, to recite prayers and lead us, as he often does, in discussions. I am without words to express my appreciation for his good work.

SCHEDULE

Mr. REID. Mr. President, today the Senate will resume consideration of the Foreign Intelligence Surveillance Act legislation. Senators WHITEHOUSE, CARDIN, and FEINGOLD have said they will come and offer three amendments this afternoon. After finishing these, we will have about eight more amendments offered. They will all have time agreements, except Senator FEINSTEIN's, but that is not a problem at all. They can probably work out the language on that, and it probably won't have to be debated.

There is no reason we cannot finish this most important legislation tomorrow. We should vote on those three amendments tonight. I hope we can do that. There will be other things that can be debated tonight.

Tomorrow, I would like to come in and have three of the most controversial amendments offered in the morning. One deals with the Dodd-Feingold amendment to strike retroactive immunity from the legislation—that part of the Intelligence Committee legislation; the amendment offered by Senator CARDIN, who changed the—one amendment is to take away retroactive immunity. The other is to deal with

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

the substitution, which is a Specter-Whitehouse amendment. Finally, there is one by Senator FEINSTEIN, which deals with exclusivity of having the FISA Court, the one that handles the intelligence eavesdropping we do in this country. I would like to do those in the morning. We can do that. There will be 2 hours per amendment. We can finish those and have votes in the afternoon. The rest of the amendments are limited to several minutes on each side. Some can probably be worked out.

We need to finish this legislation very quickly, and we need to finish the conference as soon as we can. That is what I would like to do tonight and tomorrow.

I have had a conversation with the Republican leader, and we are going to give him my proposed amendment—that is, the Finance Committee package. Basically, the only thing that would be added to that is legislation dealing with LIHEAP, which has wide-ranging support on both sides of the aisle.

We also would take from the House bill some of the language they have, which would add to what we have in the bill. So we hope to get to that.

ECONOMIC STIMULUS PLAN

Mr. REID. Mr. President, each day newspapers around the country tell us news stories of America's economic troubles—and there are economic troubles. I was told by Senator Corzine, before he became Governor—and he made millions and millions of dollars on Wall Street—regarding the market, that you can always understand when the economy is in big trouble when there are large fluctuations in the stock market. If his words are meaningful, and I believe they are, that is what we have had to deal with lately—wide fluctuations in the stock market.

Today, I looked before I left for the floor, and the market was about 100 points down. Last week, it was up several times by more than a hundred points and then down a few hundred points. That is not an economy that is feeling good about itself.

Housing foreclosures are dramatically up in cities and towns throughout the country, including an astonishing rate in Reno, NV, of more than 600 percent. In Las Vegas, it is 200 percent. In Florida, it is 275 percent. In California, with 37 million people, it is up more than 300 percent.

Gas prices are well above $3 per gallon throughout the country. The average price is $3.02 a gallon. Some States are significantly higher, and California and Nevada feel that very much.

Heating costs are skyrocketing. This is the time when especially the Northeast depends so much on heating oil. Those prices are hard to handle for people.

Friday, the Department of Labor's jobs report showed that 17,000 nonfarm jobs were cut in January. With the cost of heating homes, this is very difficult.

I was able to spend some time at home in Searchlight after Christmas. I paid the bill last night. In Searchlight, NV, $480 was the cost of my bill for heating our house. I wasn't even there all that time. Mr. President, I can pay that bill, but some people cannot. So they have to make a choice between staying cold or not paying the bill. Most of them stay cold because they know they cannot get out of paying their bill.

Again, Friday, the Department of Labor jobs report showed that 17,000 jobs were cut in January. These are 17,000 husbands, wives, sons, and daughters who don't have a job. They wonder what they are going to do.

After 8 years of economic growth during the Clinton years, the Bush administration's 7 years have shown anemic job growth. Now job growth is nonexistent, negative. During the Reagan years, about 22.5 million jobs were created. With troubling statistics such as we have had these past 7 years—yes, there have been jobs added, but they have been very weak—and growing economic challenges in our daily lives, it is no wonder that polls show the American people are now more concerned about the economy than the intractable war in Iraq. Congress cannot solve this problem on its own with a single piece of legislation, but we can and must help.

Last week, the House sent us a plan that was a good first step. It was a first step, but we have a chance now in the Senate to make the plan better. On a bipartisan basis, Senators BAUCUS and GRASSLEY have worked together to send us a bipartisan package we can all support, and we should support it.

The Finance Committee package sends stimulus checks to 21.5 million senior citizens, who would get nothing from the House bill. Most of them are living on fixed incomes, but they are facing high living costs, as I have mentioned with the heating bill for my little home in Searchlight, and medicine and groceries, which are anything but fixed. Give them the money, and these seniors will spend that money.

This Finance Committee package sends checks to 250,000 disabled veterans, who were left out of the House plan. These wounded American heroes are struggling to make ends meet, and we should not leave them out. Give them the money, and they will spend it.

The Finance Committee will extend unemployment benefits for those who lost their jobs in this economy. You are entitled to unemployment benefits for 13 weeks. When that runs out and you don't have a job, you are in big trouble. We have a lot of people in big trouble. The House bill doesn't do anything for the unemployed. Economists tell us that this is the single-most effective way to stimulate the economy. Give the unemployed this tax break, and they will spend it.

The Finance Committee bill is business-friendly—much more so than the House bill. It gives small businesses a greater ability to immediately write off purchases of machinery and equipment. When we give these tax rebates and we give these business-friendly tax incentives, it will create jobs, and in many instances it will allow people to have money, and these people will spend this money. It helps larger businesses with ''bonus'' depreciation or an extended carryback period for their past losses to recoup cash for future investments. Give them the tax break, and they will spend it. This bill will help big businesses, small businesses, medium-sized businesses, manufacturers, home builders, and a whole panoply of businesses that are struggling today.

The Finance Committee legislation addresses the housing crisis by including $10 billion in mortgage revenue bonds to be used by States to refinance subprime mortgages. This legislation was originally put into place to help build new homes, but we don't need that now. We have an inventory of tens of millions of homes. We need help in refinancing homes. The President talked about this in his State of the Union Message. This is in the Senate Finance package. Everybody should support it—Democrats and Republicans.

The Finance Committee bill includes an extension of energy efficiency and renewable energy incentives, which will create jobs, expand the clean energy industry, save consumers money on their energy bills, and begin to help stem the tide of global warming.

Mr. President, I am going to offer a substitute, as I explained, to my Republican counterpart to the House-passed legislation. It will incorporate the measures reported by the Finance Committee last week on a bipartisan basis together with the addition of LIHEAP. This will include the House-passed language on housing, plus the items we put in the bill. It will increase the conforming loan limits for Fannie Mae and Freddie Mac, as well as the loan limits for FHA-backed mortgages which will allow many more homeowners to refinance and will reduce mortgage interest rates in many parts of the country.

This amendment will allow about $1 billion to help low-income Americans heat their homes through the Low-Income Home Energy Assistance Program, which we call LIHEAP. This Low-Income Home Energy Assistance Program, which speaks for itself, provides some relief to people from having to choose between food and medicine or heat. There is more we can do, but this is a step in the right direction.

All Americans should know that as a result of our debate, their rebate checks will not be delayed a single minute.

Under the terms of the House plan, the Internal Revenue Service will determine the size of payments based on 2007 tax returns, which are not due until April 15. That gives us the opportunity to work together to create a

better plan without any need for concern.

The Finance Committee's bipartisan work helps build on the bill sent to us by the House of Representatives and makes it much better—fair to seniors and disabled veterans—and, as important as that, more effective in stimulating the economy with the breaks it gives to businesses.

That is the bottom line. It will do the job. It will work. People say: Why do we need to go to conference? We have to go to conference anyway. The House-passed bill allows the benefits to go to undocumented people. I don't think Senators want to vote for that provision. A vote this afternoon is simply a vote to proceed to the House bill. We have to go to conference anyway because of that provision; that is, rebates for undocumented persons.

We have a chance to stimulate the economy and help more struggling Americans. I hope we can all work together, Democrats and Republicans—in fact all Senators—to build on the good work done by the House of Representatives by supporting this bipartisan Finance Committee legislation. It is good legislation.

This is it. People need not look further. If the package does not pass, that is the end of the line. That will be it. It will be a shame. We will have to look at something else after we dispose of this stimulus package to try to do something to stimulate the housing industry, give unemployment benefits, to do something about LIHEAP. It would be a shame that we would miss this opportunity. The Republicans should join with us. The bill has to go to conference anyway. Let the conferees determine, working with the President, what we should do to stimulate the economy. We believe ours is a Cadillac package. It is what the American people need. It is what the economy needs. It is fair. It is just. It is quick. The House bill is, as I said, a step in the right direction but a very small step.

RECOGNITION OF THE MINORITY LEADER

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

CHEMICAL DEMILITARIZATION

Mr. MCCONNELL. Mr. President, today Congress received the fiscal year 2009 budget request from President Bush. It is a budget that does not raise taxes and provides a framework for eliminating the deficit within 5 years. Both objectives are consistent with and critical to our long-term economic goals.

It is now up to Congress to fully and fairly consider this budget proposal and each appropriations bill.

I do not need to remind our colleagues we are also hard at work to pass an economic growth package. While considering the budget, we must not undo the economic growth policies contained in that package by increasing the size of Government, when we should be increasing the size of the economy.

Turning to one particular item in the budget that is of great importance to me and my home State of Kentucky, I wish to speak briefly about the budget request for the disposal of chemical weapons at the Blue Grass Army Depot in Richmond, KY.

For years, I have led the fight in Congress to safely and efficiently dispose of the deadly chemical weapons at the Blue Grass Army Depot, and for years the Department of Defense bureaucracy has dragged its feet on this issue and refused to comply with Congress's direction that disposal of such weapons be given serious attention and the resources to get it done.

As a result, complete disposal of these deadly weapons has been pushed further and further into the future, even though the people of Richmond and Madison County, KY, have been living for too long already with over 500 tons of chemical weapons in their midst. This includes VX nerve agents, one of the deadliest nerve agents ever created.

You can understand the people of Madison County and, frankly, I have had enough. So I am pleased to report that after making my wishes clear to Defense Secretary Gates, I have convinced the Department to increase the fiscal year 2009 budget request amount to a level that will help enable the Blue Grass Army Depot to more safely and quickly dispose of these weapons.

I personally thank Secretary Gates for his involvement in this success. I have worked with and been frustrated by Defense Secretaries under both Republican and Democratic administrations. But Secretary Gates gets it and he took action. I thank him for that, and I know the people of Madison County do as well.

Before we intervened, DOD had initially set fiscal year 2009 funding for the Assembled Chemical Weapons Alternatives Program, or ACWA, at $351 million. ACWA is the program that will dispose of these chemical weapons.

Now the ACWA budget has been increased to nearly $398 million, thanks to Secretary Gates. This is the third consecutive year we have been able to persuade DOD to increase the ACWA budget request. By increasing the funding level, we can speed up the disposal.

In addition to adequate funding, legislation I authored and that was enacted into law now sets a deadline for DOD to complete work on disposal by 2017. That is right, it is now law that disposal must be completed in less than 10 years, by 2017.

This is a two-pronged approach to solving this problem and these two prongs complement each other. Together, increased funding for disposal and a deadline set into law are moving us closer to the disposal of these heinous weapons.

In short, when it comes to the chemical weapons stored at Blue Grass Army Depot, dollars plus a deadline equals disposal. That is the goal: the quick and safe disposal of these chemical weapons. The people of Kentucky deserve no less.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

THE PRESIDENT'S BUDGET

Mr. REID. Mr. President, it is true we have the President's budget, the eighth one, the eighth and last budget from this President. To think anyone has the audacity to suggest this deficit will be gone in 5 years following the President's plan is almost laughable, a man who has run this country from a $7 trillion surplus over 10 years to now approaching $12 trillion or $13 trillion in debt.

The Presiding Officer knows as much about the military as anyone serving in Congress, having been a distinguished combat veteran in the Marine Corps and Secretary of the Navy. No one is more supportive of the military, than the Presiding Officer. I try to be also. The Defense budget I get from morning reports, without having seen the budget, but the press has reported the Defense budget will now be approaching $700 billion this coming year. But there is not a single penny in this budget for the war in Iraq. That is in addition to this request. We are told that in less than 2 years, the cost of the war in Iraq will be $1 trillion, borrowed money from China, Japan, Saudi Arabia, Mexico. And, of course, it has been long pronounced this budget of the President's will have cuts in Medicare.

The President had us over a barrel last year on the appropriations bills because we did not want another continuing resolution. We did not want another continuing resolution. But he does not have us over a barrel this year because either Senator CLINTON or Senator OBAMA will be the President in less than a year. If we have to deal with a CR next year, we will deal with it. We will finish that by the end of January. We will whip through that CR in a short time. We are not going to be held hostage to the unreasonableness of this President—cutting NIH, cutting the COPS Program. What is that? Law enforcement to bring down crime rates in our country as it has—the damage to the cities that has already taken place because of the priorities that are so misarranged in this budget that he suggests to us.

Education—I brought the Teacher of the Year here to watch the State of the Union Address. She is devastated by what the No Child Left Behind legislation has done, with the President not living up to what he said he would do in funding it.

I am glad the budget is here. It is part of the law. I look forward to working with our colleagues and hope we

can do a better job with our appropriations bills than last year. But I repeat, we are not going to be held hostage by the unreasonableness of the White House. I hope we can work together and get some bills passed. The appropriators want to do that. We have now, with the ethics and lobbying bill passed, transparency in everything we do.

I also express my appreciation to Senator WHITEHOUSE for being here to start work on the FISA bill.

I have said this before and I say it now to my friend who is the manager for the FISA bill for the Republicans, how much we appreciate his devotion to the intelligence matters of this country.

RESERVATION OF LEADER TIME

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

FISA AMENDMENTS ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2248, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Rockefeller/Bond amendment No. 3911, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleagues for agreeing on a way forward on this bill. This is a very important bill, the Foreign Intelligence Surveillance Act, the FISA Act, of 2008. It gives the intelligence community the tools it needs right now and over the next 6 years to protect the country.

The Protect America Act we passed in Congress and the President signed last August allowed the intelligence community to close critical intelligence gaps, but that legislation expires in less than 2 weeks. We cannot let those gaps reopen. We passed a short-term extension, and that extension will expire when we are preparing to go out on the President's Day recess. We cannot leave our country blind and deaf to threats that terrorists might bring.

We were delayed in December by filibuster, which is the right of all Senators to have extended discussions. And there are those who say we need more time to look at this measure because it is very important and it is very technical and it is controversial. But the Intelligence Committee spent over 9 months looking at FISA modernization. We held hearings, we reviewed the Terrorist Surveillance Program, we looked at the implementation of the Protect America Act, and after that, we came up with a solid bipartisan bill. That is something in which Chairman ROCKEFELLER and I take a great deal of pride because we accommodated many changes and improvements and we did improve on the existing FISA structure, as well as adding items the Protect America Act needed to have but did not have.

The intelligence community is waiting for us to act. We have a bill that is responsible and effective. It addresses the concerns about the Protect America Act, but most of all, it gives the intelligence operators the tools they need and ensures that our private partners will continue to assist the Government.

As I said, this bill came out of the Intelligence Committee on a 13-to-2 vote after months of studying the collection programs. Chairman ROCKEFELLER, whom I thank again, and I worked together to get an agreement that protects America's constitutional rights and the privacy rights of American citizens.

There was a lot of work with the intelligence community representatives and lawyers from the Department of Justice. The Intelligence Committee members and their staffs did an outstanding job coming up with a solution.

Two provisions added during the initial markup without input from the intelligence community needed to be changed. They are great objectives, but they had to be made workable. It was our pleasure to work with Chairman ROCKEFELLER, Senator WHITEHOUSE, and Senator WYDEN to come up with a solution to both these problems, and they are now in the substitute now pending.

The Director of National Intelligence, who is responsible for running our collection programs, said with these two problems fixed, he will support the bill. This is very important to the chairman and to me because we want to pass a bill that works and will become law. It would do no good to pass a bill that has people's good ideas in it or pass a bill that is good for politics but doesn't work for those who are charged with protecting us from the threats our country faces. So the support of this bill by the Director of National Intelligence in particular is critical. With these fixes, we will have a bill the President will sign.

The chairman and I have worked shoulder to shoulder on a bipartisan basis to pass this bill. We will have to take a very careful look at any amendments that are proposed because we don't want to jeopardize the ability of the intelligence community and their private partners to go forward. It is very technical. Each word matters. And we will do our best to point out whether amendments will work. There are several amendments pending that we think will improve the bill but will not bring a veto.

With that, Mr. President, I thank all the Members who have worked with us in close collaboration to get time agreements, to get a list of acceptable amendments, and I am looking forward to moving ahead with this bill just as soon as we can. I thank my colleague from West Virginia and the other colleagues for working together on the Intelligence Committee bill.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, first let me express my appreciation to the distinguished vice chairman of the Senate Intelligence Committee for his very energetic dedication to moving this bill forward. We have not agreed on everything, but nobody can challenge his dedication to moving a bill and to making progress on this issue.

AMENDMENT NO. 3920 TO AMENDMENT NO. 3911

Mr. President, per the pending agreement, I call up amendment No. 3920, the Whitehouse amendment.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for himself, Mr. ROCKEFELLER, and Mr. LEAHY, proposes an amendment numbered 3920.

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

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

The amendment is as follows:

(Purpose: To provide procedures for compliance reviews)

On page 19, between lines 20 and 21, insert the following:

''(7) COMPLIANCE REVIEWS.—During the period that minimization procedures approved under paragraph (5)(A) are in effect, the Court may review and assess compliance with such procedures and shall have access to the assessments and reviews required by subsections (k)(1), (k)(2), and (k)(3) with respect to compliance with such procedures. In conducting a review under this paragraph, the Court may, to the extent necessary, require the Government to provide additional information regarding the acquisition, retention, or dissemination of information concerning United States persons during the course of an acquisition authorized under subsection (a). The Court may fashion remedies it determines necessary to enforce compliance.

Mr. WHITEHOUSE. Mr. President, in this debate about revising FISA and cleaning up the damage done by the President's warrantless wiretapping program, the administration has talked at length about the importance of our foreign intelligence activities. It expends all its rhetorical energy on a topic where we all agree, but it has largely ignored the issue that has been central to our debate: On what terms will this administration spy on Americans?

I rise today in support of an amendment offered by myself; by the distinguished chairman of the Senate Intelligence Committee, Chairman ROCKEFELLER; the distinguished chairman of the Senate Judiciary Committee, Senator LEAHY; Senator SCHUMER of New

York; and Senator FEINGOLD of Wisconsin, that addresses this issue: the privacy of Americans from Government surveillance.

Our amendment reflects the convergence of ideas Senator SCHUMER has been working on in the Judiciary Committee and I was working on in the Intelligence Committee and, similarly, Senator FEINGOLD has played a critical role in advancing this issue in both committees. Both chairmen, Senator LEAHY and Senator ROCKEFELLER, have reviewed it and given it their blessing. It is carefully crafted to incorporate statutory language offered by the Department of Justice as technical assistance.

On this amendment, we have done our homework. What is this amendment about? As a former U.S. attorney and Rhode Island attorney general, I oversaw wiretaps and other surveillance procedures, and I learned that with any electronic surveillance, whether it is a domestic law enforcement investigation or intelligence gathering on international terrorism, information about Americans is intercepted incidentally—in other words, when they are not being targeted by our intelligence or law enforcement agencies but overheard because they are talking to or talking with or even being discussed by someone who is under surveillance. So minimization is the term of art. Minimization is the process for protecting the privacy of Americans who are caught up in surveillance without being the target of the surveillance.

The issue here is privacy rights of Americans, and in domestic law enforcement there are clear, established procedures for minimizing the collection or retention of this information to ensure that the privacy of innocent Americans is protected. In this pursuit, the prospect of judicial review—the prospect of judicial review—is an important part of our protection.

Under the Senate Intelligence bill before us, the court has the authority to approve minimization procedures. It has the authority to approve the procedures, but it is then told that it can't look fully into whether the procedures are being followed. Thus, there is no guarantee the procedures are actually being adhered to by the executive branch on the part of the overseeing court.

I have introduced this amendment to give the FISA Court the same discretionary authority to follow up on the implementation of all these minimization procedures that it has in every other context and that is common to all courts throughout the American system of justice. Chairman ROCKEFELLER and Vice Chairman BOND have already agreed and put into the bill we will vote on that this authority already lies with the court where the target is an American, and I wish to thank Vice Chairman BOND in particular for working with me in bipartisan fashion on that point.

If the target of surveillance is an American inside the United States or if the target of the surveillance is an American overseas, then the court has the authority to review compliance through the minimization procedures. But as will often be the case, the target will be a person outside the United States, a person who is not in America, and then an American could just as easily be incidentally intercepted in these conversations, and they should still have rights, and they should still have protections.

Because minimization serves to protect the incidentally intercepted person, this protection should apply when the incidentally intercepted person is an American, and the court's authority to make sure the rules are being followed should apply there as well. It makes no sense to strip a court of its natural authority based on the identity of the target when the protection runs to the American who is not the target but who has been incidentally intercepted.

It, frankly, makes no sense as a general proposition to limit the court's authority to see whether rules it has approved are being followed. I found no place else in the law, no place at all where the authority of a court to approve an order, a rule, or a procedure is not accompanied by the concomitant authority to see if there is compliance. It is basic. Indeed, it may very well be, if there is litigation on this matter, a court will find that it is so basic to judicial authority that they will imply it. But we should put it in the bill and get it right; otherwise, we are creating in this bill a bizarre and unique quirk in American law, and there is no sensible justification offered for it.

To be clear, this amendment creates no mandates, no cumbersome procedures. Indeed, it may never be used at all. In my experience, as I said, the mere prospect—the mere prospect—of a judicial inquiry into compliance has a salutary effect—a healthy attention-getting, awakening, compliance-enhancing effect—on those who are charged with complying with the law. The opposite, I am afraid, is true as well. When executive officials are assured, as this law would do without this amendment, that the court that approves the minimization procedures is forbidden to police the compliance of those procedures, one can reasonably expect looser compliance in this enforcement holiday.

I know the Bush administration fears and despises judicial oversight, probably with very good reason, but that is no reason that we as a Senate should follow them down this wayward path. Both here, where the FISA bill creates an unheard of limitation on judicial power to examine compliance with its own approved rules, and in the immunity debate, where we are being led as a legislature into ongoing legislation to choose winners and losers, we embark into dangerous territory, outside the well-established traditions of the separated powers of our American system of government.

Particularly to my colleagues who are members of the Federalist Society, an organization with a declared interest in separation of powers, I hope you will take this occasion to defend those principles.

To quote the distinguished Justice Scalia from a Supreme Court opinion regarding a sense of sharp necessity about this separation of the legislative from the judicial power at the founding of our Government:

> This sense of a sharp necessity . . . triumphed among the Framers of the new Federal Constitution.

And it did so, again quoting the decision:

> . . . prompted by the crescendo of legislative interference with private judgments of the courts.

Going back to a previous decision, United States versus Klein, the U.S. Supreme Court, in a holding that Congress may not establish the rule of decision in a particular case, said of the legislative and judicial powers:

> It is of vital importance that the legislative and judicial powers be kept distinct. It is the intention of the Constitution that each of the great co-ordinate departments of the government—the legislative, executive and the judicial—shall be, in its sphere, independent of the others.

I submit that a court cannot be independent if it is stripped of the duty to determine whether rules and procedures it has the authority to approve are even being complied with.

I urge other Members to support this amendment. I am very gratified to see Senator SCHUMER from New York on the floor. I know he has worked hard on this issue in the Judiciary Committee. I am very grateful that somebody of his experience and distinction would cosponsor this amendment.

I yield to Senator SCHUMER.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WHITEHOUSE. I yield to Senator SCHUMER.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask for 10 minutes from my colleague from Rhode Island, who has the time.

Mr. WHITEHOUSE. No objection.

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

Mr. SCHUMER. May I modify that request to make it 12 minutes?

Mr. WHITEHOUSE. Does that leave 3 or 4 minutes, 5 minutes for the chairman?

Mr. SCHUMER. I will move it back to 10. I didn't realize we were that short on time.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island has 20 minutes remaining.

Mr. WHITEHOUSE. The 12 minutes will work, leaving time for the chairman and some to spare.

Mr. SCHUMER. On amendment 2937, I wish to thank Senator WHITEHOUSE

for his leadership on this issue; Senator FEINGOLD and our two great chairs, Senator ROCKEFELLER and Senator LEAHY. I will briefly describe this amendment.

When we debate these issues, our friends on the intelligence side say you cannot stop us with cumbersome procedures that will not allow us to listen in on a phone conversation a terrorist might be engaging in, you have to act quickly. That is a legitimate wish. You certainly do not want to let a phone conversation slip away while you are going through days and days and days in court.

But this amendment has nothing to do with that. We do not interfere with any phone conversation that might legitimately be listened in to, that might be tapped ahead of time.

What we are saying is this: There ought to be oversight to make sure our intelligence agencies obey the rules; that when there is a conversation or a person, an American citizen on the line who should not be listened in to because the conversation is not about the intended subject, that they quickly stop listening.

Now, under present law, there is no oversight, none. So if someone would want to take liberties, in one of the intelligence agencies or other agencies, and listen in to Americans having conversations, citizens, who have no right to be listened in to because they did not involve legitimate security concerns, they could continue to do it and no one would ever know.

That is wrong. The minimization requirements we have placed in this amendment, which was originally in the Judiciary Committee amendments, but, unfortunately, or in large part in the Judiciary Committee amendments—unfortunately that amendment which I supported was defeated—will ensure there is oversight and that we get all the intelligence information we need, without abuse or overstepping of bounds.

That is the perfect balance. It is hard to see how anyone could object to oversight after the fact to make sure people are not abusing the privilege of listening in to phone conversations or other conversations, electronic conversations, American citizens are having.

That is why this amendment I hope will be supported unanimously in this Chamber. Whether you are a conservative or a liberal, Democrat or Republican, someone who leans to the side of making sure we get every bit of information or someone who leans on the side of making sure American liberties are protected, both worthy goals, you can support this amendment.

I wish to once again thank my colleagues for their hard work on an important issue.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I would like to offer my strong support for the amendment offered by Senator WHITEHOUSE to ensure there is explicit written legal authority in this bill for the Foreign Intelligence Surveillance Court to review and to assess compliance with the minimization procedures established for the bill's new acquisition authority.

One of the most serious deficiencies in the Protect America Act was the fact that the FISA Court was not given a role at all in approving the minimization procedures put in place by the Attorney General and the Director of National Intelligence for collection activity. That was fine. But it was insufficient.

Minimization procedures are the procedures that govern the treatment of nonpublic information concerning Americans in the acquisition and retention and dissemination of foreign intelligence.

The Intelligence Committee's bill addressed this deficiency in the Protect America Act by requiring the court to review and approve minimization procedures. The committee, however, learned, and then was happy to take from in our discussions, the Judiciary Committee's better approach to this. We did not, in the Intelligence Committee bill, explicitly authorize the court to assess compliance with these minimization procedures.

As the Senators from Rhode Island and New York have pointed out, there is no point in having something on the books if you cannot be sure it is going to be complied with.

So compliance is a sacred principle. Senator WHITEHOUSE's amendment will ensure that the court can assess the executive branch's compliance with these minimization procedures, be provided with information it needs to make the assessment, and have the authority to enforce this assessment.

The administration objected to the provision reported from the Judiciary Committee allowing the FISA Court to review compliance with minimization procedures as being what it called ''a massive expansion'' of the court's role.

The administration also argued there are enough other oversight mechanisms already in the bill, through requirements on the Attorney General, the Director of National Intelligence, the Inspectors General of the intelligence agencies.

I respectfully disagree with that assessment. Assessing compliance is inherent in the court's role. It is inherent in the FISA Court's role in reviewing and approving minimization procedures in the first place. In fact, without it, without the compliance part of it, the first parts are nice but not sufficient.

Having the court assess compliance with minimization procedures is an important safeguard to ensure there is due care in the handling of, as I say, nonpublic information concerning U.S. persons.

I therefore urge the adoption of this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I yield myself 5 minutes. I ask that the balance of the time on this side be reserved for Senators HATCH and SESSIONS and others who want to speak.

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

Mr. WHITEHOUSE. Will the vice chairman yield for a question?

Inquiring through the Chair, I am wondering when the vice chairman believes Senators HATCH and SESSIONS might be here?

Mr. BOND. Mr. President, all I know is we were all expected to be back at 5:30. I do not have their flight schedules. We are contacting their offices, but I do not know when they will be back.

Let me move on now to address some of the things that have been said. No. 1, there was a comment about the damage done by the Protect America Act. Nobody has shown any damage done by the Protect America Act. What it has done is given our intelligence community the ability to intercept foreign terrorist electronic communications. It has kept the world and our allies and our own people safer.

If anybody wants to look at that, there are, in our enclosed intelligence rooms, the full description of what has been gained.

The amendment before us, allowing the FISA Court to assess compliance, may sound like a good idea. But when we talk about foreign targeting, we are outside the FISA Court's experience and their expertise.

The FISA Court was created in 1978 to issue orders for domestic surveillance on particular targets. But Congress specifically left foreign surveillance activities to the executive branch and to the intelligence community. This is the first time we have heard that a court, set up to oversee domestic applications for electronic surveillance, should be involved in the foreign targeting efforts dealing with foreign information.

FISA minimization procedures are about protecting the identities of U.S. persons. This comes up all the time in domestic surveillance. But almost all the collection under these foreign targeting acquisitions will be on non-U.S. persons who require no protection under FISA minimization procedures.

I will explain later if I have time, after others have spoken, what the FISA Court itself has said about it. Therefore, it does not make sense to try to get the FISA Court involved in assessing compliance in the foreign targeting arena.

Now, it has been said that a judge, one of the district court judges who is brought in to rule on applications, probable cause applications for domestic surveillance, should go out and review what goes on at the facilities where collections are being made. Now in France, they have a wonderful procedure that goes far beyond anything

we have and would drive many of our civil libertarians nuts.

The investigating magistrate investigates, he prosecutes and he rules on cases. That is a wonderful way of overseeing the whole line of action. As an investigator and prosecutor, he makes a judgment.

We do not have that situation. We do not have that same system. We have courts that rule on controversies. We have given them the power to review the minimization procedures, the written procedures but not to go out and spend the day trying to figure out what is going on where the collections are being held.

What we do have is a very robust system of oversight, contrary to what my colleague from New York said. I will have to agree with him: I agree with all the things he said about the New York Giants. I rooted for them. I thought they were great. I will have to confer with my colleagues from New Hampshire and Maine to see whether they would accept on our side the terrible things he said about the New England Patriots. But I was a born-again Giants fan yesterday.

But when he said there is no oversight, he overlooks the supervisors, the inspector general who is overseeing minimization, the Department of Justice lawyers who are on top of them, and, more importantly, the Intelligence Committee itself. That is our job. Our job is to oversee it, and we intend to continue to oversee it to make sure that system works. Our staff can go out there. Our members can go out there.

I suggest, given the background the distinguished Senator from Rhode Island has in seeking warrants, and overseas warrants, probably nobody in this body will be better able to oversee compliance than the distinguished Senator from Rhode Island, who served as a prosecutor and as attorney general. I assure you not one of the FISA Court judges would have nearly as good a background or as fruitful a time as my colleague from Rhode Island would have.

I believe, therefore, leaving the existing oversight policies in place, with a robust oversight by the Intelligence Committee itself—those of us who have been entrusted to assure the intelligence collection goes forward in an appropriate manner—should be allowed to do so.

Mr. President, I yield the floor and I reserve the remainder of my time under the proposal I made previously.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that my remaining time on this amendment be reserved until a later time.

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

Mr. WHITEHOUSE. I yield the floor.

Mr. SCHUMER. Mr. President, I rise as the proud cosponsor of amendment No. 3920, offered by my friend Senator WHITEHOUSE. I supported the Judiciary substitute amendment, and I am disappointed that it was tabled. It contained a number of important safeguards and protections.

However, the Senate still has the opportunity to ensure independent oversight of our intelligence activities. The amendment before us is a key step in that effort. This amendment makes sure that the FISA Court can review the privacy of American communications, and take action to protect that privacy, any time American communications are gathered during the course of foreign intelligence surveillance.

Senator FEINGOLD and I had an early concern that any FISA update needs court oversight with real teeth, and we pushed for these protections to be included in the Judiciary substitute amendment. Senator WHITEHOUSE had the same concern, and so the amendment before us today is the excellent product of many heads working together.

I have always said that when it comes to intelligence policy, we must have three things. First, we need a free and open debate about any measure that affects our security. We are having that debate now. Second, we need clear rules so that our intelligence community knows what is expected and can act within the clear boundaries set out by Congress. I will only support a final bill that contains such rules. Third and finally, we must have an independent arbiter to ensure that those rules are being followed. A rule without oversight is likely to be a hollow rule.

The amendment before us is necessary to put teeth into the Foreign Intelligence Surveillance Court's independent oversight function. This amendment is a simple, commonsense measure, and yet it is also one of the most substantial protections we can provide for Americans. Let me explain why this is so.

As we all know, the bill before us would grant the President broad authority to wiretap communications between two foreign people or between a foreign person and a U.S. person as long as the target of the surveillance is located outside the United States. With these new powers, the intelligence community can collect the communications of law-abiding Americans, without a warrant, if that American happens to be in contact with someone who is up to no good.

But law-abiding Americans expect their private communications to stay private, and rightly so. How can we gather and use the intelligence we need but also protect the privacy of innocent Americans? The administration says that Americans are protected because the intelligence community follows a set of rules called minimization procedures. These rules limit the collection, use, and dissemination of communications to make sure that Americans' privacy is protected. The administration itself sets out these procedures, so they should present no hindrance to our intelligence collection. What the administration does not say is that currently, there is absolutely no independent oversight of whether the administration is following its own rules. The bill before us would allow the Foreign Intelligence Surveillance Court to review the minimization rules on paper, to see whether they pass muster, but no power to review them in practice.

The amendment now before the Senate offers a vast improvement. With this amendment, the court will have the authority to examine the administration's performance and to assess whether the intelligence community is practicing what it preaches. If the court finds problems, it can issue orders to ensure that the administration follows the rules.

I am not suggesting that the court should be setting limits before the fact. I think our intelligence community needs the flexibility to protect our country. But I think it is essential for the court to be able to look back and tell us, with an independent voice, whether the administration was following its own rules to protect the privacy of law-abiding Americans.

This amendment does not restrict our intelligence gathering. It assures meaningful protection for individual Americans, and it helps to promote faith in our Government and our intelligence community. I cannot imagine why any of my colleagues would oppose this amendment. We all know that the fox alone should not be guarding the henhouse. It is just common sense to provide independent, retrospective oversight. I hope and expect that all of my colleagues, on both sides of the aisle, will join me to vote in favor of this amendment.

Mr. LEAHY. Mr. President, the bill we are now considering gives the executive branch unprecedented authority to conduct warrantless surveillance. It would permit the government, while targeting overseas, to review more Americans' communications with less court supervision than ever before. I support surveillance of those who might do us harm, but we also have to protect Americans' civil liberties. One of the most important ways to provide that balance is to ensure a meaningful role for the courts in supervising this new authority.

Unfortunately, the Protect America Act severely diminished the Foreign Intelligence Surveillance Court's role as a check and balance on the executive branch. Under the Protect America Act, the FISA Court cannot conduct oversight over whether the executive branch is complying with the ''minimization'' rules that are a crucial protection for Americans whose communications are incidentally picked up by government surveillance of overseas targets. Judicial oversight of how these safeguards are working is

a critical protection of the privacy of U.S. persons in this area.

I want to praise Senator WHITEHOUSE, who as member of both the Judiciary Committee and the Select Committee on Intelligence did so much work to reverse the courts diminished role and to craft this fundamental provision. His amendment, which was part of our Judiciary bill, would ensure that the FISA Court has the authority it needs to assess the Government's compliance with minimization procedures, to request the additional information it needs to make that determination, and to enforce compliance with its orders. It would make certain that the FISA Court has a meaningful role in overseeing this new surveillance authority.

Minimization procedures are a key protection—indeed virtually the only protection—for the privacy of the conversations of people in the United States that are ''incidentally'' collected as part of this broad new surveillance authority. These could well be completely innocent Americans who happen to be talking to someone overseas. FISA Court oversight of minimization procedures is critical. Without this amendment, the FISA legislation would allow the court to review minimization procedures, but it would not give authority to assess whether the government is complying with those procedures, nor would it permit the court to take any action to correct failure to comply with those procedures. This is a crucial amendment and I urge Senators on both sides of the aisle to support it.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, is it necessary for me to ask that the pending amendment be set aside?

I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 3979 TO AMENDMENT NO. 3911

(Purpose: To provide safeguards for communications involving persons inside the United States)

Mr. FEINGOLD. Mr. President, I call up amendment No. 3979.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. WEBB, Mr. TESTER, Mr. BIDEN, Mr. SANDERS, Mr. KENNEDY, Mr. MENENDEZ, Mr. AKAKA, Mr. DODD, and Mr. OBAMA, proposes an amendment numbered 3979 to amendment No. 3911.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. FEINGOLD. Mr. President, the Protect America Act we passed last year was sold repeatedly as a way to allow the Government to collect foreign-to-foreign communications without needing the approval of the FISA Court. Last week, the Vice President defended the Protect America Act by talking about the need to wiretap without a court order ''one foreign citizen abroad making a telephone call to another foreign citizen abroad about terrorism.''

Now, this is something all of us support, every one of us. But what the Vice President did not mention—and what rarely gets discussed—is the Protect America Act actually went much further. It authorized new sweeping intrusions into the privacy of countless Americans. The bill the Senate is considering to replace the PAA does not do nearly enough to safeguard against Government abuse. So this amendment—the Feingold-Webb-Tester amendment—would provide those safeguards, while also ensuring that the Government obtains the information it needs to fight the terrorists who threaten us.

I am, of course, extremely pleased to have the support and cosponsorship of Senators WEBB and TESTER, as well as Senators BIDEN, SANDERS, KENNEDY, MENENDEZ, AKAKA, DODD, and OBAMA. We have worked closely together to develop a workable solution to a difficult problem—a solution I hope the Senate can support.

Now, this is not about whether we will be effective in combating terrorism. This amendment in no way hampers our fight against al-Qaida and its affiliates. This is about whether Americans at home deserve more privacy protections than foreigners overseas. This is about whether anyone outside the executive branch will have a role in overseeing what the Government is doing with all the communications of Americans it collects inside the United States.

We all know the stakes are very high. I want my colleagues to understand the impact the Intelligence Committee bill being considered on the Senate floor could have on the privacy of Americans, because that is exactly what our amendment addresses. This bill does not just authorize the unfettered surveillance of people outside the United States communicating with each other; it also permits the Government to acquire those foreigners' communications with Americans inside the United States, regardless of whether anyone involved in the communication is under suspicion of any kind of wrongdoing at all.

There is no requirement the foreign targets of this surveillance be terrorists, spies, other types of criminals or even agents of a foreign power. The only requirements are that the foreigners are outside the country and that the purpose of the surveillance is to obtain ''foreign intelligence information,'' a term that has an extremely broad definition covering anything involving the foreign affairs of the United States.

The key, of course, is that no court reviews these targets individually. Only the executive branch decides who fits these criteria. So the result is many law-abiding Americans who communicate with completely innocent people overseas will be swept up in this new form of surveillance, with virtually no judicial involvement and virtually no judicial oversight. That is astounding, isn't it? Yet there has been very little discussion of it.

The administration has told us over and over this law is needed to capture foreign-to-foreign, terrorism-related communications. In the State of the Union last week, President Bush defended this law by saying:

To protect America, we need to know who the terrorists are talking to, what they are saying, and what they are planning.

Even the administration's illegal warrantless wiretapping program, as described when it was publicly confirmed in 2005, at least focused on particular al-Qaida terrorists. But what we are talking about now is different. This is the authority to conduct a huge dragnet that will sweep up innocent Americans at home, combined with an utter lack of oversight mechanisms to prevent abuse.

These incredibly broad authorities 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, though, particularly with e-mail, such communications are commonplace. Millions of ordinary and innocent Americans communicate with people overseas for entirely legitimate personal and business reasons. Technological advancements, combined with the ever more connected world economy, have led to an explosion of international contacts. Americans call family members overseas; students e-mail friends they met while they were studying abroad; businesspeople communicate with colleagues or clients overseas.

In fact, recently released declassified responses to congressional oversight questions highlight how broad these authorities are. The executive branch was asked whether it could acquire all the calls and e-mails between employees of a U.S. company and a foreign company the U.S. Government is targeting, with no requirement to get a warrant and no requirement that there be some link to terrorism or a specific threat against the United States. The administration did not deny this would be entirely legal under the PAA.

So any American who works at a company that does business overseas should think about that.

Americans should also think about the testimony of the DNI himself, in which he said the PAA would authorize the collection of all communications between the United States and overseas. In other words, the Government

has the authority to collect all international calls and e-mails into and out of the United States—every last one.

We often hear from those who want to give the Government new powers that we just have to bring FISA up to date with new technology. But changes in technology should also cause us to look closely at the need for greater protection 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 in the Senate have a duty to provide the necessary safeguards against abuse. That, of course, is what the Feingold-Webb-Tester amendment would do. It allows the Government to acquire all the communications of foreign targets communicating with other foreigners overseas. It also allows the Government to acquire all the communications of overseas terrorists, but it sets up additional safeguards—additional checks and balances—for communications of foreign targets the Government ultimately determines involves someone in the United States.

The amendment has several components. But let me reiterate that the amendment would permit the Government to freely acquire and share all foreign-to-foreign communications without any court oversight. This is, in fact, an enormous change from the pre-PAA law, and this amendment leaves those new authorities intact.

Let me quickly describe how the amendment would work. First, when the Government knows in advance that a foreign target is communicating with someone in the United States, it permits the Government to acquire, without a court order, those communications involving terrorism or suspected terrorists or if someone's safety is at stake. It permits the Government to acquire any other communications into the United States with a court order. The FISA Court would review and approve procedures for making these determinations. As I said, the Government could continue to acquire and use any communications its foreign targets have with other foreigners overseas. That surveillance would continue, again, without any court oversight. Our amendment permits that.

The second part of this proposal recognizes it is frequently not possible for the Government, in advance, to determine whether a particular communication is a purely foreign communication or involves one end in the United States. Thus, the amendment specifies that when the Government does not know in advance with whom a foreign target is communicating, it can acquire all the target's communications without an individualized court order—all of them.

But at some point—and this is one of the keys to our amendment—the Government may realize it has acquired a communication with one end in the United States based on procedures that are developed by the executive branch and reviewed and approved by the FISA Court. Under our amendment, it must then tag or segregate the U.S.-end communication in a separate database.

Now, we know this tagging process is feasible because the Government recently declassified the fact that it does something similar with information obtained under the PAA. The Government can then access, analyze, and disseminate any of these tagged U.S. communications if they involve terrorism or a suspected terrorist or if someone's safety is at stake. All they have to do is this: They have to simply notify the FISA Court after the fact and provide a brief certification that one of these circumstances apply. There is no requirement that these communications be destroyed, in case they include information that may later prove to be useful. The other tagged communications can also be accessed, analyzed, and disseminated if the Government obtains a court order.

The amendment also ensures there is independent oversight of this process. If the FISA Court has any concerns that the terrorism or emergency certifications are being abused, it has authority to ask for additional information, and to limit future access to certain communications if it ultimately determines the Government's certifications to the court are clearly erroneous.

Now, I do understand this amendment imposes a new framework that may take some time to implement. That is why the amendment would not require the Government to implement this new system for up to a year after enactment. I think that is plenty of time to work out any problems and get these procedures up and running.

The amendment also contains a critical oversight provision. It directs the inspectors general of the Department of Justice and the Department of Defense to audit the implementation of compliance with this amendment. These IGs as well as the FISA Court will have access to the American communications that the Government has acquired to make sure the authorities are not being abused.

Taken together, these provisions ensure that we know when Americans' communications are being collected so there is some baseline information available to the FISA Court, Congress, inspectors general, and other independent monitors for tracking impact of the legislation on Americans' privacy.

Tracking this type of information is also good for national security. We have heard the President tell us repeatedly in defense of his so-called terrorist surveillance program that if there are people inside our country who are talking with al-Qaida, we want to know about that. This amendment takes him at his word, and it requires him to set up procedures for identifying those communications in the United States where it is reasonably practical.

We have been hearing for years now that the U.S. Government needs authority to wiretap foreign terrorists outside the United States without individual court orders. This amendment permits that. To take one example, if the U.S. Government has targeted a member of al-Qaida overseas, under this amendment it can acquire all of that target's communications—all of them. If it determines the particular communication is with someone in the United States, the Government would tag it and it could access and disseminate it as long as the FISA Court is simply notified after the fact with a brief certification. That kind of focused, terrorism-related surveillance—the type of surveillance we most want our Government to be engaging in—would continue absolutely unabated. On the other hand, the amendment provides safeguards in case the Government is, in fact, conducting massive dragnet surveillance of communications with people in the United States. In that situation, yes, this amendment would then impose the oversight that is desperately needed. It will make sure that in situations not involving terrorism or personal safety, the FISA Court will play its important role in overseeing the Government's use of communications involving Americans. In other words, it will make sure these authorities are not abused.

We have heard a lot today about minimization procedures, which are supposed to protect against unnecessary disclosure of information about Americans' communications the Government collects, and the importance of giving the FISA Court power to enforce compliance with them. I strongly support that effort. I tried to initiate this issue in the Intelligence Committee. It has been very effectively taken up in the Judiciary Committee by the Senator from Rhode Island as well as the Senator from New York, and it is extremely important that we prevail in that amendment to get those protections. But the supporters of the Intelligence Committee bill claim that minimization procedures are enough to protect Americans' privacy. In fact, the minimization requirements in the Foreign Intelligence Surveillance Act are quite weak. They permit the widespread disseminations throughout the U.S. Government of information about U.S. persons if it is deemed foreign intelligence information which, again, is very broadly defined, and they permit dissemination of the identities of these U.S. persons if ''necessary to understand foreign intelligence information or assess its importance''—also a very loose standard.

Now, we know from our experience in the nomination hearing of John Bolton to be United Nations Ambassador how easy it is for Government officials to obtain access to those identities. And when the FBI receives reports referring to a U.S. person, according to recently declassified Government documents, it

will ''likely request that person's identity'' and will ''likely be'' the requirements for obtaining it. There are other minimization requirements and Government regulations, the details of which are classified. We know in any event that those can be changed at any time. Minimization is simply inadequate in the context of these broad new authorities. More is needed.

The amendment I have developed with Senator WEBB, Senator TESTER, and others is an extremely balanced and reasonable approach to addressing one of the most serious problems with this legislation. It gives the Government full access to foreign-to-foreign communications without any court oversight. And it provides access to communications between a foreigner and an American, if there is a terrorism link or if someone's safety is at stake, without the requirement of a court order. In other words, this amendment gives the administration what it asked for when it demanded these massive new powers. So when the Vice President says we need to pass legislation that permits warrantless wiretapping of ''one foreign citizen abroad making a telephone call to another foreign citizen abroad about terrorism,'' this amendment totally permits that. When the minority leader says the Government needs to be able to ''freely monitor new terrorist targets overseas,'' this amendment totally permits that as well.

But this amendment also provides safeguards to make sure that Americans' basic rights are being protected. Too many communications of innocent Americans are going to end up in Government databases under the PAA and under the Intelligence bill for us to ignore this very serious problem.

Any Senator who believes that Americans here at home deserve more privacy protections than foreigners overseas should support this amendment, and any Senator who believes the executive branch should not be granted far-reaching surveillance authorities involving Americans without independent oversight should support this amendment as well.

At this time I ask unanimous consent that the Senator from Montana, Senator TESTER, be recognized to speak on this amendment, and after he has concluded his remarks, that the Senator from Virginia be recognized. Both of these presentations would be allocated from the time I control on this amendment.

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

Mr. FEINGOLD. Mr. President, let me say how grateful I am to the Presiding Officer, Senator WEBB, and the next speaker, Senator TESTER, new Members of the Senate who have delved into this very difficult subject and who have tried to achieve the right balance. I don't know of any Senators who are more concerned about protecting the lives of Americans from terrorists, but they also want to make sure that we get this right while protecting the privacy of Americans. So I thank both of them.

I yield to the Senator from Montana.

Mr. TESTER. Mr. President, I thank the Senator from Wisconsin for his fine work on this amendment. My comments today will indicate my full support for it. I hope this body uses its wise judgment to put this on the Intelligence bill as it comes forth. I think it is critically important that we move this amendment forward to protect American citizens from unwarranted wiretapping.

Let me say I am very glad we finally reached an agreement on the amendments to the Intelligence Committee bill that would replace current law, that current law being the Protect America Act. I voted against the Protect America Act this last August because it included measures that would permit the Federal Government to conduct warrantless wiretapping and intercept innocent Americans' communications. We all recognize the need for our Government to have the necessary tools to keep us safe. That is at the forefront in all of our minds. At the same time, we must do this in a way that protects our civil liberties and constitutional rights to privacy. A number of amendments have been offered with that goal in mind, including the one I rise to talk about today: the Feingold-Webb-Tester amendment.

This amendment would require that all inadvertent surveillance of a U.S. person—someone who is a U.S. citizen, a legal permanent resident, or a U.S. corporation—be tagged and sequestered. Right now, under the Protect America Act and under the Intelligence Committee bill that we are currently debating, the Government would be authorized to have unfettered surveillance of all communications of all people outside of the United States without a warrant. This access would also be extended to Americans here in the United States at the other end of that phone call or e-mail message. Americans abroad or those who receive communications from abroad could be wiretapped without a warrant. That deficiency is what this amendment addresses.

Let me be clear. This amendment does not stop surveillance from happening; it merely sets a higher threshold for access to communications that involve Americans. Let me repeat that. It sets a higher threshold for access to communications for those that involve Americans.

The Feingold-Webb-Tester amendment will not impede the collection of foreign intelligence information or compromise our national security. It would merely require that intelligence intercepted overseas of an American citizen's communications would have to be tagged and sequestered before it could be accessed. To be accessed, the intelligence community would have to have a specific warrant to review Americans' overseas communications.

Why is this necessary? Because in the past, the administration implemented a warrantless surveillance program which severely encroached upon our rights against unauthorized search and seizure.

Under the Protect America Act, when we monitor foreign communications, there is no requirement that anyone involved in the communication be under any suspicion of wrongdoing. As a result, simply communicating with someone in a foreign country opens any American to surveillance. This is most often the case when a conversation starts abroad and ends up with someone in the United States. Why? Because the Government must meet only two criteria: that at least one party to the communication be outside of the United States, and that the purpose of the surveillance is to obtain foreign intelligence.

This overreaching protocol is even more expansive than the administration's illegal warrantless wiretapping program which is focused on people targeted because of their involvement with suspected terrorists. I am opposed to the widespread wiretapping and surveillance of innocent Americans.

The Director of National Intelligence has openly stated that the current law, the Protect America Act, allows full collection of all international communications into and out of the United States, well beyond what the Government says it needs to protect the American people. Further amendments will be offered during the course of this debate that explicitly state such widespread full collection of all international communication is not authorized. However, as it stands, any time you communicate with someone overseas by e-mail or by phone, your conversation could very well end up in a Government database somewhere.

These days, international communications are commonplace. Many Americans have friends and family living overseas studying or for business or vacationing. When they return, they often keep in touch with the friends they have made while living abroad. For example, if you are on a vacation in Europe and call home to check on your elderly parents, the entire conversation could get caught in the crosshairs of this foreign surveillance program. That is not right and it does not make any sense. It opens innocent Americans to the unrestricted surveillance of wholly innocent conversations by the Federal Government. This is not what Americans expect or deserve.

We must act to ensure that such communications caught in the widely cast net of surveillance are segregated or specifically designated so that privacy concerns can be minimized. This amendment, the Feingold-Webb-Tester amendment, would require that this information be kept apart as a way to protect the privacy rights of those people who innocently find themselves under surveillance. The content would not be destroyed, but investigators

would have to go through additional steps in order to access it in the future.

The Foreign Intelligence Surveillance Act is meant for foreign surveillance. Our amendment reiterates that focus and it protects Americans from the accidental but very real intrusion of our right to privacy. I don't want my granddaughter, my wife, your kids, or any other Americans to have their communications monitored, stored away, and then easily accessible at a later date. This amendment ensures that doesn't happen.

I urge my colleagues to support this amendment. I think it is critically important for the success of this bill and to protect innocent Americans' civil liberties.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I also rise in support of this amendment, which I am very proud to be cosponsoring along with the Presiding Officer and Senator TESTER. I appreciate also the support of a number of other Members of this body on this bill.

I wish to start by saying I consider myself to be very much a realist when it comes to the intelligence services in the United States and when it comes to the use of classified information. I got my first security clearance when I was 17 years old. I have been involved in the intelligence world all of my life. When I was Secretary of the Navy, I was privileged to have ''black'' security clearances in a number of areas with some highly sensitive information. I understand the complexities of this environment.

I also am very sensitive to the massive instantaneous flow of data that now exists in today's world that makes it essential we have more rapid procedures in place in order to intercept key transmissions. But that also gives us the responsibility to ensure that with this higher volume of communication, we don't allow mistakes and abuse, because that potential also rises.

Simply stated, this amendment is designed to allow our Government on the one hand to aggressively fight terrorism but, on the other, to protect our vital constitutional rights and our system of checks and balances.

This amendment will neither stop nor slow down any of our vital intelligence activities. I wish to reemphasize that. There is nothing in this amendment that will slow down the ability of our intelligence services to do the job they are supposed to do.

The American people have been following this debate. The law is a complex law; we recognize that. But the arguments advanced by many in this Chamber have not focused fully on the broad constitutional issues about which Americans have concerns. We care about keeping our Nation safe from further terrorist attack. But we also must care just as deeply in this body about making sure our Government's surveillance is done in a way that is consistent with our Constitution.

I agree with my colleagues—many of whom sit on the Intelligence or Judiciary Committees—this law needs to be updated for all the reasons I mentioned. I am very proud of our Government's trained professionals who have worked so tirelessly for the last 6½ years, since 9/11, in their effort to help keep our country safe.

But while the means of electronic communication surveillance have rapidly modernized, the speed and overwhelming volume of those communications still requires us to maintain a balanced Federal system, with proper checks and balances against the improper use of governmental authority. The broader the governmental authority, the greater is our responsibility to ensure this authority is narrowly and properly applied.

The watchwords of this debate, from our perspective, are: Safety. Security. Fighting terrorism. But also oversight—oversight of the executive branch, proper checks and balances. Those watchwords should guide us.

The Senator from Wisconsin has completed an exhaustive explanation of the nuts and bolts of this amendment. The Senator from Montana has added to that. I will not belabor their explanations of those finer points. But I emphasize our amendment will do what the American people have been demanding: restore a proper system of checks and balances in our Government's surveillance program. Every Member of this body—and every American, no matter which political party or persuasion—supports the fundamental bedrock concept of checks and balances, concepts we have captured in this amendment's provisions.

As I mentioned, this amendment allows our Government to fully and effectively monitor communications in order to keep us safe from terrorist attack, in every conceivable way. It permits our Government to acquire any foreign-to-foreign communications. It permits our Government to acquire any communications of suspected terrorists into or out of the United States. It permits our Government to acquire any communication where there is reason to believe the acquisition is necessary to prevent death or serious bodily harm. And it permits our Government to acquire any communications for law enforcement purposes if the communication is evidence that a crime has been, is being or is about to be committed.

Simply stated, the underlying bill in this amendment bestows on our Government the essential tools to keep America safe.

On top of that, for the first time, this amendment would erect a system of oversight and accountability for communications that do not fall into the broad categories I have described.

What types of communications? They are communications that have one end in the United States and generally involve innocent Americans who are not targeted as suspected terrorists, as the Senator from Wisconsin so aptly described. In other words, it could be anyone; it could be you, it could be me. For those of us who have no ties to terrorism, an updated FISA law should and must provide proper protections.

As the Senator from Wisconsin described in his remarks, under this amendment, when the Government realizes it has acquired a communication with one end of the United States, the Government must segregate that specific communication in a separate database. For example, this could take the form of a telephone call or an e-mail.

To emphasize, so there is no misunderstanding: Even after segregating these communications, the Government can have full access to them; but the Government cannot, and should not, have unfettered access to communications of innocent Americans.

This amendment is quite simple. The inspectors general for the Department of Defense and Department of Justice would be given access to sequestered communications. These sequestered communications will allow the inspectors general to see specifically which Americans the Government surveilled or which specific communications were diverted into Government hands for possible surveillance.

Using this information, the inspectors general would be required to conduct audits of the implementation of the sequestration system and determine the extent of the surveillance. I note the inspectors general would employ staffs with appropriate security clearances. And at least once per year, they must report their findings to the Senate and House Committees on the Judiciary and Intelligence.

I believe we need this amendment for many reasons. For almost 7 years, the executive branch's surveillance program has operated in almost total secrecy, often above the law and the Constitution, and often above any review by Congress or the Foreign Intelligence Surveillance Court. For almost 7 years, only the executive branch, and perhaps a few isolated employees of telecommunications companies, have known which Americans were being surveilled. This is unacceptable in a constitutional system, whose Founding Fathers rejected the notion of an executive branch with absolute, unchecked authority. In fact, Congress rejected the notion of unchecked executive authority when it originally passed FISA, after the Watergate scandal.

There are many arguments that may be leveled against this amendment. I believe they hold no water. Some of them simply employ fear tactics to cloud the issues of constitutional propriety.

First, some may contend the underlying bill already greatly expands the authority of the FISA Court. But the problem is the pending bill requires

only a review of general surveillance processes. Administrations can, and have, abused processes. A truly robust system of checks and balances demands accountability and oversight over the specific communications obtained by the Government.

This oversight is all the more critical because, for almost 7 years now, the administration may have enjoyed completely unrestrained access to the communications of virtually every American.

Do we know this to be the case? I cannot be sure. One reason I cannot be sure is I have been denied access to review the documents that may answer these questions, even about the process. A month ago, our majority leader wrote to the Director of National Intelligence, asking that all Senators be given access to the documents surrounding the telecommunications companies' involvement in the administration's surveillance program. To this date, that request has been denied.

The denial of this request is one more reason the Senate must bring true accountability to our Nation's intelligence-gathering process. If we do not ask the tough questions and demand true oversight, how will we ever know the extent of Government surveillance or how many innocent Americans have been listened to?

Second, some will argue a process of sequestering communications will be far too cumbersome and, as the Senator from Wisconsin pointed out, this is simply untrue.

Under current law, the Government already labels the surveillance communications it collects.

Additionally, members of the Judiciary and Intelligence Committees tell me that the segregation of these communications can be easily accomplished. Finally, if our intelligence community needs additional personnel or resources to accomplish this requirement, then the Congress should promptly provide the necessary funds. Compliance with the U.S. Constitution is not a matter of option; it is mandatory.

Third, some may contend that this amendment is a partisan ploy designed to embarrass the intelligence community and the administration.

Again, this is simply untrue. I would make the same arguments if the current President belonged to my party. This amendment is not rooted in partisanship. Rather, it attempts to protect the constitutional rights of all innocent Americans.

Moreover, I recognize the tremendous work and sacrifices made by the professionals in our intelligence community, as they aim to keep our homeland safe from attack. But only through a robust system of checks and balances can we ensure the good name of our intelligence professionals and the work that they do.

In sum, I ask my colleagues to join in supporting this amendment. It is time to lay aside our differences and do what is right, time for the Congress to aggressively and responsibly assert its oversight responsibilities.

I am reminded today of a famous quote from U.S. Supreme Court Justice Cardozo. Analyzing our constitutional system of checks and balances, in 1935 Justice Cardozo wrote that executive branch ''discretion is not unconfined and vagrant. It is canalized within banks that keep it from overflowing.''

I urge my colleagues to recognize the importance of this amendment in keeping our Nation safe while also restoring an appropriate system of checks and balances to the FISA surveillance process.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from Wisconsin, reserves the remainder of his time on this amendment.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I yield myself 5 minutes. I appreciate the concern of my colleagues on the other side of the aisle. But there are quite a few misconceptions and misinterpretations about the bill and about the impact this proposed amendment would have.

Again, after the chairman speaks, there are a number of members of the committee who wish to come and speak more about it.

The purpose of this bill is, and always has been, to enable the intelligence community to act to target foreign terrorists and spies overseas. To answer many of the contentions made, you cannot get a certification to begin the process, unless there are reasonable procedures to assure that the targeted persons reasonably are believed to be located outside the State. Two, the procedures are consistent with the requirements of the Fourth Amendment and do not permit intentional targeting of any person known to be located in the United States. In 2(a)(3), it says that a significant purpose of the acquisition is to obtain foreign intelligence information.

Now, the statements that somebody who has gone abroad and is calling back home to their children would be surveilled is beyond the pale. No. 1, there is a clear prohibition in the bill against targeting any U.S. persons abroad without getting a FISA Court order saying there is reasonable cause to believe, one, they are acting as an agent or officer or employee of a foreign power; and, two, they have significant information. What this amendment does, however, is strike the ability to collect information on some foreign power that may be talking about proliferation of weapons of mass destruction. Furthermore, it would prevent collection on hostile states acting in a dangerous manner to the United States.

Now, the amendment, as it is drafted, will have a totally unexpected impact. It is difficult to explain, in an unclassified session, why this amendment is unworkable. But it would say that if there is a person reasonably believed to be located in the United States, such communication shall be segregated, or specifically designated, and no person shall have access to such communication except in accordance with title I, which presumes that you have access to that information, to determine whether it qualifies under the exceptions to the prohibition.

In effect, you would have a requirement that any kind of incidental communication from a person, from a foreign terrorist target, somebody having information of foreign intelligence value or a possible terrorist attack, who calls the United States or sends an e-mail, you would have to track down and find out where every e-mail recipient may be. You would have to identify people who might be collecting that information and investigate whether they are in the United States; and you would compile a significant amount of information on U.S. persons.

The whole reason it operates with minimization is to say there are only certain communications which the intelligence community is lawfully permitted to acquire, and which it has any desire to acquire, because to acquire all the communications from all foreigners is an absolutely impossible task.

I cannot describe in a public setting how they go about ascertaining which collections are important. But to say that if Osama bin Laden or his No. 3 man—whoever that is today, after the last No. 3 man in al-Qaida was wiped out—calls somebody in the United States, we cannot listen in to that communication, unless we have an independent means of verifying it has some impact or threats to our security or a terrorist threat.

That is the most important communication we need to intercept. The Protect America Act has kept our country safe because if somebody calls in with information on a terrorist threat, then the FBI and local law enforcement officials can go to work on that threat immediately and get additional criminal authorities as needed. But that is the most vital kind of information to get. We certainly should not be required to be put in a lockbox, as this amendment would provide.

Finally, talking about expansion of surveillance powers, when FISA was first adopted, most of the collection against foreign targets came by radio, whether coming into the United States or going foreign to foreign, and there was no limitation on it. There was no limitation on intercepting radio communications.

What we have done in FISA is to impose significant new restrictions on the collection of information that might be of foreign intelligence value. We should change the definition of ''electronic surveillance,'' but we were not able to do so in this law so it would apply to collection against other forms of communications.

Suffice it to say, this bill before us, the bipartisan bill, is carefully targeted, limited, covered with layers of protection and oversight to assure minimization, as I previously suggested. Whether you believe the inspector general of NSA, the inspector general of the DNI, the Department of Justice will perform adequate oversight or not, you can be sure the Intelligence Committee will do so.

I yield the floor and reserve the remainder of our time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Wisconsin.

Mr. LEAHY. Mr. President, will the Senator yield to me? I was going to ask that I be allowed to proceed, I don't think it will be more than 5 or 6 minutes, as though in morning business to give a eulogy, with the time not to be taken from either side.

Mr. FEINGOLD. I ask the Senator if I can quickly respond to the Senator from Missouri.

Mr. LEAHY. Of course. I understand.

Mr. FEINGOLD. Mr. President, responding to the comments just made, the Senator from Missouri, in responding to the Feingold-Webb-Tester amendment, tried to indicate that this will prevent us from going after spies and others from foreign states. First, under our amendment, of course the FISA Court can grant permission to wiretap spies. And, if it is a foreign state that is involved in terrorism, there would be no permission required under our amendment to wiretap the officials involved. It would not affect that.

It was also suggested this would somehow be very cumbersome. That suggests we are requiring permission for all foreign communications, but that is not true. Our amendment only affects, and only in a minimal way, communications from a foreign place to someone in the United States. That is not cumbersome.

Third, the Senator from Missouri suggests we will have to make the Government sift through all kinds of e-mails to figure out whether they can get at individual communications. That is the opposite of the way this works. This amendment creates an assumption in favor of collection. In other words, if the Government does not know for sure if a communication is foreign or domestic, the assumption is it is foreign until there is some indication that it is domestic. It is only then that the limited oversight provided by this amendment kicks in.

The final example the Senator from Missouri used shows how questionable these arguments are. If you can believe it, the Senator argued that if Osama bin Laden called someone in the United States, somehow our amendment would affect that. That is obviously false. Our amendment specifically allows an exception for any conversation by anyone in the United States with a terrorist overseas, without any special FISA Court permission. That argument shows the weakness of the opposition. The idea that the Senators from Virginia and Montana and I would suggest an amendment to not allow us to listen in on Osama bin Laden gives you a little clue that the arguments against this amendment are not based on the amendment we offered.

I thank the Senator from Vermont very much for understanding. I wanted to quickly respond to those arguments. I yield the floor and reserve the remainder of my time.

Mr. CARDIN. Mr. President, may I ask the Senator from Vermont to yield for a moment? I ask unanimous consent that I be recognized after the Senator from Vermont.

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

Mr. LEAHY. Mr. President, first, I might say, in this debate the Senator from Wisconsin is absolutely correct. I was there during some of the debate on this issue and I know what he means.

(The remarks of Mr. LEAHY are printed in today's RECORD under ''Morning Business.'')

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, with the forbearance of the Senator from Maryland, I wish to place our situation in context because we have a number of things going on, and I would like the Parliamentarian to explain it to me so it is very clear to all of us.

Before I do that, I am reading at the direction of the leader his unanimous consent request, and that is to have the time from 5:20 p.m. to 5:30 p.m. be reserved for debate on the motion to invoke cloture on the motion to proceed to H.R. 5140, the economic stimulus bill; further, that the time be equally divided and reserved for the two leaders or their designees, with the Republicans controlling the first 5 minutes and the majority controlling the final 5 minutes.

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

Mr. ROCKEFELLER. Now I would like to ask the Parliamentarian to help me be sure and our Members on the floor and others what our situation is. The chairman of the Judiciary Committee has just given an extraordinarily moving tribute to a very dear friend of his—extraordinarily moving—but that came in between. Now, the Senator from Pennsylvania has come upon the floor and he wants to say certain things, and there are people in the gallery to whom this would have a direct effect, so there is a temptation to go along with that. On the other hand, we are still on the Feingold amendment. I believe that to be the pending amendment, if the Parliamentarian declares that to be the case.

On the other hand, the person who is listed second on the order of the day is the Senator from Maryland. In the matter of how many years we should wait before going back to this, if we do, he was in fact the second person on the order of the day for the second amendment. He is here. He has been waiting and he wants to present that amendment. So it is 4 o'clock and we have a variety of things before us, and I wish the Parliamentarian to set us straight as to where we are.

The ACTING PRESIDENT pro tempore. The Feingold amendment is the pending amendment. There is time remaining for debate on that amendment. However, an order has been entered for the Senator from Maryland to offer his amendment, on which there is 60 minutes of debate, and that is to come next.

Mr. ROCKEFELLER. I don't know how much time is remaining on both sides with respect to the Feingold amendment.

The ACTING PRESIDENT pro tempore. On the Feingold amendment, the majority has 7 minutes 39 seconds, and those opposing have 37 minutes 27 seconds.

Mr. ROCKEFELLER. If this Senator does his mathematics, that takes us already past the time of the unanimous consent.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROCKEFELLER. Of course, we don't have to use all our time. Therefore, I would encourage our colleagues not to do so, and yet to get out the full body of the amendment.

I appreciate the response of the Parliamentarian, the Presiding Officer, and I yield the floor.

Mr. LEAHY. Mr. President, I support providing the Government with the flexibility it needs to conduct important surveillance of overseas targets. Both the Intelligence Committee's and the Judiciary Committee's versions of this bill would allow the Government to intercept all communications of overseas targets, including those communications with people inside of the United States. However, this also means that the Government will necessarily be acquiring the communications of innocent Americans.

I commend Senators FEINGOLD, WEBB, and TESTER for crafting an amendment that will help to safeguard the privacy rights of innocent Americans whose communications are acquired during the surveillance of overseas targets. This new FISA legislation will grant the Government authority to conduct surveillance on overseas targets concerning ''foreign intelligence.'' This term covers a broad range of subjects and the new authority would permit the Government great latitude to intercept communications without a court order. Once Americans' communications are collected, they can be shared widely with other agencies. This Feingold-Webb-Tester provision permits unfettered acquisition of foreign-to-foreign communications and of communications of suspected terrorists into or out of the United States while creating safeguards for communications not related to terrorism that

the Government knows have one end in the United States. If the Government is not able to determine beforehand whether a communication will be into or out of the United States, it can acquire all of those communications without prior court approval. What this amendment does is add the very reasonable protection that if it is later determined that a communication involves a person in the United States, measures will be taken to segregate that information to assure that privacy is protected appropriately. There are exceptions even then to make sure that national security is never placed at risk. If the communication involves terrorism or a suspected terrorist, if someone's safety is at stake, the Government can then access, analyze and disseminate that communication.

This amendment is an important check to ensure that the new authority we will grant with this bill is used as intended. Without it, many law-abiding Americans who communicate with completely innocent people overseas will be swept up in this new form of surveillance, with virtually no judicial involvement or oversight.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Mr. President, let me thank my friend from West Virginia for clarifying the floor circumstances as best we can.

AMENDMENT NO. 3930 TO AMENDMENT NO. 3911

Mr. President, I ask unanimous consent to lay aside the pending amendment, and I call up amendment No. 3930.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself, Ms. MIKULSKI, Mr. LEAHY, Mr. ROCKEFELLER, and Mr. SALAZAR, proposes amendment numbered 3930.

The amendment is as follows:

(Purpose: To modify the sunset provision)

On page 54, line 16, strike ''2013.'' and insert the following: ''2011. Notwithstanding any other provision of this Act, the transitional procedures under paragraphs (2)(B) and (3)(B) of section 302(c) shall apply to any order, authorization, or directive, as the case may be, issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by this Act, in effect on December 31, 2011.''.

Mr. CARDIN. Mr. President, first let me thank my colleagues for their patience. We are trying to get through a series of amendments on the FISA legislation.

The amendment I am offering is one that was approved by the Judiciary Committee, one that I think is very important to this legislation moving forward, and one which would establish a 4-year sunset for congressional review. I am proud that my cosponsors of this amendment include Senator LEAHY, Senator ROCKEFELLER, Senator MIKULSKI, and Senator SALAZAR, and I thank the distinguished chairman of the Intelligence Committee, Mr. ROCKEFELLER, for his leadership and for his help in regard to the amendment I am bringing forward.

I wish to go back a little in time to when the original FISA statute was passed. During that period of time, we had recently come out of Watergate. There were certainly indications of warrantless surveillance done on Americans because of their disagreement with the administration in power, there were indications of warrantless surveillance of individuals because they happened to disagree with U.S. policy in Vietnam, and there was genuine concern that we had not balanced properly the Government's need to obtain information in order to keep us safe and the protections of the civil liberties of the people who live in our own country. So we tried to enact a statute that would provide balance in 1978. There was the Church committee report, and in 1978 Congress passed the FISA statute.

I want to start by quoting from one of our colleagues, Senator KENNEDY, and what he said in 1978 about the original passage of the FISA statute—the Foreign Intelligence Surveillance Act of 1978. He said:

The complexity of the problem must not be underestimated. Electronic surveillance can be a useful tool for the government's gathering of certain kinds of information; yet, if abused, it can also constitute a particularly indiscriminate and penetrating invasion of the privacy of our citizens. My objective over the past 6 years has been to reach some kind of fair balance that will protect the security of the United States without infringing on our citizens' human liberties and rights.

The Attorney General at that time for the Carter administration was Griffin Bell. Attorney General Bell said:

I believe this bill is remarkable not only in the way it has been developed, but also in the fact that for the first time in our society the clandestine intelligence activities of our government shall be subject to the regulation and receive the positive authority of a public law for all to inspect. President Carter stated it very well in announcing this bill when he said that ''one of the most difficult tasks in a free society like our own is the correlation between adequate intelligence to guarantee our Nation's security on the one hand, and the preservation of basic human rights on the other.'' It is a very delicate balance to strike, but one which is necessary in our society, and a balance which cannot be achieved by sacrificing either our Nation's security or our civil liberties.

A lot has happened since 1978 when that law was passed. We know that technology has changed and the law has been amended over its life, but we still have the same problem: how to balance our need to get information, which is important for the protection of our Nation, and the civil liberties of our citizens.

I am proud to represent the people of Maryland. I am proud of the work done by NSA—the National Security Agency—which is located in Maryland. I have visited the National Security Agency on many occasions. These men and women, dedicated to a mission of protecting our country by getting lawful information which is important to preserve the security of America, do their job with great distinction and great dedication to our country.

But we have seen in recent years the difficulty in complying with the FISA statute. Information obtained from foreign sources, because some communications come through America with the new technologies and the way in which communications are now handled today, is different than it was back in the 1970s. So we need to pass this statute. I think everyone here is prepared and understands the need for us to modernize the FISA statute, but we have to get it right.

Let me mention one debate that has been taking place on this floor that the chairman and the Republican leader on the Intelligence Committee have talked frequently about, as has the leadership on the Judiciary Committee, and that is the minimization rules. We think we have it right now, but we are still concerned about the minimization rules. It is interesting to go back in history and look at what the Senate Judiciary Committee said in 1978 about the concerns of Americans being caught in the web but not being the main focus of our target for surveillance. The Senate Judiciary Committee observed:

Also formidable, although incalculable, is the chilling effect which warrantless electronic surveillance may have on the constitutional rights of those who were not targets of surveillance, but who perceived themselves, whether reasonably or unreasonably, as potential targets. Our Bill of Rights is concerned not only with direct infringements on constitutional rights, but also with Government activities which effectively inhibit exercise of these rights. The exercise of political freedom depends in large measure on citizens' understanding that they will be able to be publicly active and dissent from official policy within lawful limits, without having to sacrifice the expectation of privacy that they rightfully hold. Warrantless electronic surveillance can violate that understanding and impair that public confidence so necessary to an uninhibited political life.

That is what we are concerned about here. We want to make sure we get this right, and we know that over time we have seen abuses of the statute. We are now concerned about what happens when an American is targeted. They didn't think about that before, about someone traveling abroad. I congratulate the committee for bringing forward a bill that does protect Americans who are traveling abroad and are a target of surveillance by requiring cause be shown. That is how it should be.

I am very concerned about the debate we are having in this body concerning the exclusivity in the statute we are going to pass. There has been a long history of debate as to how much article II power the President has in regard to warrantless surveillance. This is not a new subject. But I must tell you, I think this administration took that issue to a new level. I believe the courts agree that the President went

too far. So it is our responsibility to try to get this right so that we have the rule of law behind what the administration does, rather than trying to use article II power, which in fact can very easily be abused.

There is another issue I want to comment on briefly—and I will come back to the sunset provisions as to why I think the 4 years is so particularly important in this legislation—and that is the immunity issue and the retroactive immunity. Retroactive immunity concerns me. I would hope it would concern every Member of the Senate. It concerns me not just as it affects the telephone companies in their cooperation with this administration—because there has been clear evidence that they operated under the authority that the administration had this power and that they were helping their country—but what concerns me about granting them retroactive immunity is the impact it will have on the courts' oversight of the abuse of privacy by the administration or private companies.

We need the courts actively involved here. We don't get this right all the time, and certainly the administration doesn't get it right all the time. We need the courts involved in these issues. If we grant retroactive immunity, we are saying we reserve the right to take away the third branch of Government—the judicial branch of Government—for making determinations as to whether an individual's right of privacy is violated. I don't think that is something we want as a legacy of this Congress. That is why many of us are concerned about using retroactive immunity.

There are other options that are out there. I see my distinguished colleague from Pennsylvania, Senator SPECTER, is here. He has a proposal that I think would take care of the concerns of the telephone companies yet protect the integrity of the courts. I congratulate him for that recommendation, and I think he has now refined it to the point that I hope it will garner the type of support necessary for approval by this body.

Senator FEINSTEIN has a proposal that, rather than just giving immunity, would at least have the courts make the determination as to whether the telephone companies are entitled to this relief; whether they acted in good faith. So at least we have the courts involved in this decision rather than taking away their authority. I think either of those recommendations would be a major improvement over giving retroactive immunity to telecommunication companies.

But let me get to the specifics of the amendment I have offered, which is the 4-year sunset on the provisions. Again I am pleased to be joined by several of our colleagues. It is interesting to point out that sunsets have been part of the FISA statute for a long time. When the USA PATRIOT Act was passed, it contained a 4-year sunset. Now why did we put a 4-year sunset in? We were worried about whether we got it all right. This is something that required the continued attention of the Congress and the administration. In fact, we reauthorized it with significant changes and then put in another 3-year sunset, in this case for one of the most controversial provisions. So this is something we have done in the past.

The Protect America Act is a major departure from the PATRIOT Act. It was passed hurriedly, and no one denies that. It was passed hurriedly last August, and we weren't comfortable with what we did. The proof is the bill now before us is a much better bill. Thank goodness we had the sunset. The committee recognized the need for a sunset because they put a 6-year sunset in.

Why do I think it is so important to change that 6 years to 4 years?

Let me tell you why: I think it is in our national interest that the next administration taking office in January of 2009 be focused on this issue, this vital issue of getting the intelligence information that is critical to protect the safety of the people of this Nation but also to protect the civil liberties of Americans.

I think it is vital that the next administration look at those opinions that came out of the Attorney General's Office and the White House and give a fresh look to it and try to figure out if there is not even a better way to accomplish both the collection of information and the protection of civil liberties.

If we continue the 6-year sunset, there will be no requirement for the next administration to take a look at this statute. With a 4-year sunset, it will come under the watch of the next administration.

It is very interesting that one of my colleagues talked about the opportunity to review documents, and I believe the distinguished chairman of the Intelligence Committee would agree with me—from the fact that we had a sunset on the bill we passed in August, we got a lot more attention from the administration on getting material. They brought a lot of material into our office so we could review it. They cooperated with us because they knew we had to act. If we include a 6-year sunset, there will be no requirement for the next administration to engage Congress on this issue. I want the next administration to engage Congress on this issue.

We have seen the change in technology since we passed this bill in 1976, and technology is changing more rapidly than ever before. We do not know the next way in which terrorists are going to be using it in order to try to circumvent our detection as well as our laws. We do not know that. So it is important for us to stay engaged so that we can have the most effective tools in place, not using the article II power of the President but having Congress engaged and making sure we have the statutes correct.

It is another reason I think it is very important to have a 4-year sunset. I know I am not telling you something you do not already know, but the FISA statute gives the administration extraordinary powers and very sensitive powers as it relates to the privacy of people here in America and an issue on which we have to make sure we protect the rights of our citizens.

So for all of those reasons, we want to stay engaged on this subject. Again, I want to emphasize this is not a question of no sunset versus a 6-year sunset. I understand the administration wants no sunset. I can understand that. The President probably would want no Congress. But the Framers of our Constitution understood the importance of the legislative branch of Government. It is rated as No. 1, article I.

I urge my colleagues to support this amendment. It is an amendment that is offered in good faith. I would encourage my colleagues to support the amendment.

I reserve the reminder of my time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. This Senator would add an additional complication but one which is necessary and highly important.

Senator LEAHY, as I indicated, gave a very moving statement. We now have two more Senators on the floor who wish to discuss equally tragic circumstances with members of either the family or close friends in the gallery, which means we cannot postpone, for a variety of reasons which the senior Senator gave me.

I ask unanimous consent that we set the pending amendment aside temporarily and first call upon the junior Senator from Pennsylvania and then the senior Senator from Pennsylvania to make a few short remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. The junior Senator from Pennsylvania is recognized.

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

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

(The remarks of Mr. CASEY and Mr. SPECTER pertaining to the submission of S. Res. 442 are printed in today's RECORD under ''Submitted Resolutions.'')

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2591 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SPECTER. Mr. President, I thank the managers of the bill for the time.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, in the absence of the Senator from Maryland, I yield myself 5 minutes from the time controlled by Senator CARDIN on his amendment.

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

AMENDMENT NO. 3930

Mr. ROCKEFELLER. Mr. President, this Senator supports the amendment of the Senator from Maryland to revise the sunset provision of the bill so that the new authority established under this act will expire after 4 years.

This Senator had originally started out supporting a 4-year sunset because it seemed to make sense because it comes during the next President's term in office.

This is supremely important legislation. There is no one—with the exception of the administration—who has objected, no committee which has objected to the idea of considering a sunset review. The reason is very clear: One wants to make sure, when you are balancing foreign intelligence collection, intelligence collection in general, and civil liberties, that one has the right balance. The question before us today is what date in the future makes the most sense for a sunset.

There are a number of new initiatives which are either proposed to be started in this legislation or which will be started in this legislation, and none of them are entirely predictable.

I think a 4-year sunset makes a lot of sense because it is so important that we know what we are doing, that we know we are doing it right, and that we know the intelligence community knows it is doing its work correctly—I do not mean badly or superbly but simply that they are getting it the way they want to do it and it is compatible with the spirit of the law, that the Congress and the administration are in sync on it. We do this before we settle this into permanent law.

This is all new. Everything changed on 9/11. Many considerations under the law, particularly with respect to the gathering of intelligence and the protection of privacy, changed. This is especially important in light of the rapid pace of change in telecommunications technology—one of the main reasons were are here today revising FISA.

I think we need to have a 4-year sunset amendment. I do think it is important that the intelligence community, the Congress, and the administration come back together in 4 years. Congress, obviously, can bring it up anytime we want. On the other hand, if we do it this way, with a 4-year sunset amendment, it obliges all participants to come to participate. That is the way we get resolved what works and what does not work, and we learn from the intelligence people, and they learn from us, as to what we think is the best way to proceed.

So I do strongly support that amendment. It would take us to December 31, 2011. This four year period would give the intelligence community ample time to move ahead but it also ensures that the decision on permanency is made when Congress and the executive branch are prepared to evaluate the legislation again. As I have indicated, I support the amendment.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican floor manager, I think by our tradition, is to be recognized.

Mr. BOND. Mr. President, I thank the Chair.

I appreciate the opportunity to share a few views on the amendment. Again, on this measure, as on the others, I have a number of my colleagues who have indicated a desire to speak on it, so I am only going to take a very few minutes.

But let's be clear: When this issue came before the Intelligence Committee, we worked on a bipartisan basis to compromise. I think we had, as I have said before, a very good compromise. Everybody gave. I did not want any sunset. I felt providing our intelligence community the ability to establish a good, strong, adequately protected but yet effective means of intercepting foreign intelligence communications was vitally important so the intelligence community would know they had this ability.

Moreover, I have had the opportunity, in the last couple years, to meet with many of our allies abroad. Our allies depend upon our ability to intercept communications that lead to the disruption of terrorist attacks in other countries.

Again, I ask my colleagues who want to know what the Protect America Act has done to review the classified communication that the Director of National Intelligence sent us saying how many times and where in foreign countries we were able to provide vital information through our collection of electronic signals to the governments that wanted to be able to prevent terrorist attacks and were significantly enabled to do so by means of our collection efforts. Probably the reason for keeping it a permanent law was best expressed by the Attorney General, Mike Mukasey. When he was asked about why we shouldn't have a sunset, he said: The enemies, the Islamist terrorists who want to do us harm, do not put a sunset on their fatwas, their orders to go out and kill Americans and kill our allies and kill our troops abroad.

There is no immediate prospect of cessation of foreign terrorist activities or proliferation of weapons of mass destruction or even threats from countries that are absolutely hostile and dangerous to the United States. To put an artificial time limit on it makes no sense.

I have a different view of what the Intelligence Committee should be doing. One of the things we see, as we have discussed some of these amendments, is that those of us on the Intelligence Committee have special access to all this information, but we have a heavy responsibility. We try to carry it out well. Every time we explain on the floor what our intelligence activities are concerning, even in an unclassified setting, the more we talk about it, the more our enemies—those who would seek to do us harm—learn about our intelligence collection capabilities. Bringing this back to the floor will enable them, once again, to learn more about what we are doing and when we are doing it.

Frankly, having a sunset that expires just before a new administration is sworn in after the 2012 elections seems to me not to make much sense. If there are changes needed in the Foreign Intelligence Surveillance Act amendments of 2008, it is our job on the Intelligence Committee to conduct continuing oversight. If there is a problem with that activity, if it is inadequate or if it is not properly regulated, then it is our job in our oversight hearings to bring that to the floor and bring that particular fix or that particular change that is needed to the floor immediately. We shouldn't wait 6 years or even 4 years. If we need to fix it, we need to find out what fixing is needed, and we need to take those steps at that time, not wait for 4 years or 6 years. All we do by setting an artificial time limit on it is to say to those who seek to do us harm: Well, if you go past the deadline, who knows? Maybe the Congress will not be able to adopt an extension. Maybe we will be able to communicate with our operatives in the United States and elsewhere without surveillance. It causes uncertainty in the intelligence community, and I believe it is not wise to cut back on the compromise we reached on a bipartisan basis in passing out the FISA amendments of 2008 by a 13-to-2 vote.

So I urge my colleagues to vote against this amendment.

I yield the floor, and I reserve the remainder of the time on this side.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, first, let me thank the distinguished chairman of the Intelligence Committee for his support for this amendment. He has helped in bringing it forward. Let me respond, if I might, to Senator BOND's points.

First, let me point out that the cooperation we receive from the executive branch is very much enhanced when they know we have to pass a statute. All we need to look at is the cooperation we have received over the last several years from this administration to know that when we get to a point where Congress needs to act, we get the help of the administration in bringing us on board.

As to the comments by the Republican leader on the committee that the terrorists don't have sunsets, they also don't have a legislature. They don't have democracy. They don't have any process that is open. They have no respect for civil liberties. We fight for this Nation because of what this Nation stands for. We know there are abuses of power, and we have a responsibility to take action on them. Sunsets have worked on the FISA statute.

My colleague from Missouri has supported sunsets at different times during the process. We had it in the PATRIOT Act, and in the renewal of the PATRIOT Act we still have sunsets. We had sunsets on the original Protect America Act, and the bill that came out of the Intelligence Committee has a sunset in it.

I understand the administration is against sunsets. I understand that. I don't agree with the administration's view and the way they use the power that was given to them—that they thought was given to them. I think they have abused it at times. Thank goodness we had oversight to try to rein that in, and thank goodness we had the courts looking at what they were doing.

So the point is whether it should be 6 years or 4 years. I think it is critically important that the next administration work with this Congress to take a look at how this administration used the power and take a look at the legal opinions that were written so we have a comfort level between Congress and the next administration on protecting the security of America and protecting the civil liberties of the people who live in this Nation. That is why I believe the 4-year sunset is so important.

I respect the view of my colleague from Missouri as to the predictability of statutes. We are not going to let the authorities expire. We are going to carry out our responsibility. We know that. There is not a person who is a Member of this body who disagrees with giving the appropriate tools to the intelligence community.

As I said earlier, I am very proud of the work that is done at NSA in the State of Maryland by dedicated men and women. They can't send out press releases when they do things that are very important to our country in protecting our security. They do a great job. We owe them the type of support that includes a statute that is definitive and makes sense and that we pass; also, that we continue to be their partners and continue the oversight with the change in technology and continue to work with the executive branch to make sure we get it right.

I urge my colleagues to support the amendment. I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I think we all recognize that this legislation would provide broad and untested new powers to the executive branch. We are willing to do that in order to protect our national security. But this surveillance does not just affect foreign targets; it also affects the privacy rights of potentially millions of American citizens. That is why it is so important that we get this right. And that is why I support Senator CARDIN's amendment, which would reduce the sunset provision of this bill from 6 years to 4 years.

We are dealing with untested procedures; we have no assurance that what we are doing now will properly protect national security or the privacy rights of Americans. Many questions remain about how the new authorities that Congress is prepared to grant will be implemented, whether they will be effective, and—equally important—the extent to which they will intrude on innocent conversation of Americans. As we understand more about these authorities—and perhaps as technology allows us to improve our approach to this important surveillance—the executive branch and the Congress should reevaluate these sensitive authorities.

There is too much here that is new and untested to allow the authorities to go longer than even expiration of the next President's term before requiring a thorough review. A 4-year sunset makes sense. It will allow the next President 3 years of experience under these authorities to monitor how these new powers are being carried out. And it is an appropriate time for the Congress to evaluate whether the legislation strikes the right balance between national security needs and Americans' civil liberties.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Senator from Maryland for his leadership on the sunset issue. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3915 TO AMENDMENT NO. 3911

Mr. FEINGOLD. Mr. President, I call up amendment No. 3915.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. DODD, proposes an amendment numbered 3915.

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

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

The amendment is as follows:

(Purpose: To place flexible limits on the use of information obtained using unlawful procedures)

On page 17, strike line 20 and all that follows through page 18, line 11, and insert the following:

''(B) CORRECTION OF DEFICIENCIES.—

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

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

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

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

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

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

Mr. FEINGOLD. Mr. President, this amendment is a provision that was part of the Judiciary Committee bill. It was included in a larger substitute amendment adopted in that committee that was sponsored by Senator LEAHY and cosponsored by Senator FEINSTEIN, Senator SCHUMER, and others.

This amendment puts no additional limits on the Government's ability to target people overseas under this legislation or to collect information about those people. All it does is help ensure that the Government's procedures follow the requirements that are laid out in the bill. It fixes an enormous problem in the Intelligence Committee bill: the complete lack of any incentive for the Government to do what the bill tells it to do, namely, target people overseas rather than people in America.

There are many aspects of this bill that have generated strong disagreement, but one thing on which everyone in this Chamber should agree is that the Government should not be using these authorities to target the conversations of innocent Americans in their homes and offices in the United States. For that, the Government should have to get an individualized court order, as it always has.

The bill requires the Attorney General, in consultation with the Director of National Intelligence, to adopt targeting procedures that are reasonably designed to ensure that only people outside the United States are targeted. The bill also requires the Attorney General, in consultation with the Director of National Intelligence, to adopt minimization procedures to govern the retention and dissemination of information about Americans that is captured in the course of the surveillance.

All of this sounds good. The targeting procedures, in particular, are one of the few safeguards built into this legislation. Yet, remarkably, the Intelligence Committee bill does nothing to ensure the Government will follow them. They are basically non-binding. The FISA Court does not have to approve the procedures before they are

implemented. If the Government develops procedures that target Americans in this country, in violation of the law, the FISA Court can reject those procedures and require them to develop new ones but only after those procedures have already been in effect.

The bill does nothing to stop the Government from continuing to use and share the information it collected under those illegal procedures. Think about that. The Government develops and implements procedures the FISA Court later finds out are not reasonably designed to target people who are outside the United States, meaning the procedures likely permit the targeting of Americans here at home—something we all agree should not be permitted under this bill. Yet if the Government has been using those unlawful procedures while the FISA Court reviews them, it can keep and freely share any communications it gathered. In theory, the Government could play this game indefinitely, periodically revising its procedures and all the while using and disseminating information that has been illegally collected under prior procedures rejected by the court.

My amendment would solve this problem, at least in part, by allowing the FISA Court to put limits on the use of information about Americans the Government has gathered using procedures the court later finds do not comply with the requirements of this legislation.

These types of use limitations are not a new concept. Indeed, they are borrowed from another part of FISA. Under current law, if the Government in an emergency starts surveillance of an American without a court order and the court later determines the surveillance was not lawful, FISA places limits on how the Government can use that unlawfully gathered information. It is simple common sense: If the Government wasn't supposed to obtain this information under the law, then the Government shouldn't be permitted to use this information except in a true emergency. Otherwise, the limit on obtaining the information in the first place isn't worth the paper it is printed on—it's just there for show.

This amendment adopts the same basic idea, but with significantly more leeway for the Government. Under the amendment, if the Government collects information using unlawful procedures, the default is that the Government may only use the information regarding U.S. persons—namely, the information the Government was never supposed to collect in the first place—in an emergency involving a threat of death or serious bodily harm to any person. But the Government can continue to freely use information collected on foreign persons.

The amendment also provides significant additional flexibility. It gives the FISA Court discretion to allow the Government to use even information about U.S. persons—information collected illegally—as long as the Government ultimately fixes the defective procedures. That is a very broad exception to the use limitation, but importantly, it is an exception that is overseen and applied by the FISA Court.

This is the bare minimum we could possibly do to encourage the Government to adopt and adhere to lawful targeting and minimization procedures in the first place. The practical effect of this amendment is simply to give the FISA Court the option of prohibiting the use of information about U.S. persons obtained illegally—in violation of the very act we are debating. Given the FISA Court's history of overwhelming deference to the executive branch, it is quite clear the court will exercise this option, if ever, only in the most egregious cases of Government excess or abuse. And as I said before, the Government will always have the ability to use information about foreign persons and any information that indicates a threat of death or serious bodily harm.

Just to be clear, no one is talking about holding the Government to a standard of perfection. The bill we are debating does not require the Government to develop procedures that ensure that in every instance, only people overseas are targeted. Instead, it requires the Government to develop procedures that are reasonably designed to target people who are reasonably believed to be outside the United States. So the use limitation I am proposing would come into play only if several things happen: First, the Government failed to get court clearance for its procedures before implementing them; second, the procedures were not even reasonably designed to meet the modest goal of targeting people reasonably believed to be overseas; third, the Government failed to correct the problem when given a chance to do so, or the FISA Court decides not to allow the use of the illegally collected information despite the procedures being fixed; fourth, the information involves a U.S. person; and fifth, the information does not indicate a threat of death or serious bodily harm. All these things have to be true in order for there to be any limitation here at all.

This is an extremely modest safeguard against unlawful procedures and one that gives the Government ample leeway to develop sound targeting procedures while simultaneously getting and using the information it needs.

It comes down to a very simple question: Do we mean what we say when we declare that Americans in this country should not be targeted under the powers we are giving the Government in this legislation? If we do mean what we say, we should have no problem saying that the use of information obtained through procedures that target Americans can be blocked by the FISA Court, since that information should never have been obtained in the first place. If we don't say that, then the targeting and minimization requirements are really just suggestions, and the supporters of the bill are not serious when they say they only want to go after foreigners overseas.

This amendment is based on a commonsense provision that already exists in FISA, with significant additional flexibility for the Government. It gives the Government a modest incentive to comply with the law, without taking away any of the legitimate tools it needs to respond to foreign threats. And it was already adopted by the Judiciary Committee.

I urge my colleagues to support the amendment, and I reserve the remainder of my time.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Missouri.

Mr. BOND. Madam President, I rise in opposition to another amendment that has been argued very strongly on the other side but which would impose additional operational burdens and limit the ability of our collective agencies in the intelligence community to get the information they need and to be able to use it to keep our country safe.

We have gone through all of these, and we have worked to develop much greater protections for American citizens. One of the protections the American citizens seek from us is the protection from foreign attack and terrorist attack. If we hamstring our intelligence community—as they were hamstrung under the new techniques under the old FISA law—you will find out we cannot collect the information we need. This burden—this superexclusionary rule—goes far beyond what is necessary to protect American citizens.

While supporters of the amendment may argue that a similar rule appears elsewhere in FISA, it is important to remember that rule is limited to individual domestic surveillance and searches, where the court has found there is no probable cause to target that person. That is very different and is a very important protection for Americans from searches and seizures and surveillance without a court order—not a properly developed court order.

This amendment tries to apply that same rule to foreign targeting, when there may be a deficiency identified in the targeting or minimization procedures. Applying an exclusionary rule in the context of a domestic surveillance involving a small number of targets is manageable and it must be done to protect Americans. It makes no sense if there is no finding of probable cause. That is the threshold under which that rule applies. But it makes no sense to exclude the use of information simply because there is a deficiency—any deficiency—in the certification or procedures used to target foreign terrorists overseas. That is whom we are talking about; that is the overwhelming amount of the collection—against foreign targets, foreign terrorists, and others with weapons of mass destruction plans or proliferation or foreign powers. It makes no sense to say a deficiency, which can be corrected, should

require all the information collected to be suppressed.

For example, this automatic suppression rule would make the Government temporarily sequester significant amounts of data, potentially, that might contain vital foreign intelligence information—obviously, there is a qualification—but not amount to information that indicates a threat of death or serious bodily injury during a period of time when the Government is attempting to correct a relatively minor or inadvertent deficiency.

That is unreasonable, and it is one more administrative burden to place on the intelligence community. Moreover, the Intelligence Committee's bill already provides an adequate remedy if the FISA Court ultimately determines that the collection is improper; it may order the Government to cease collection.

The court then has the inherent authority to fashion an appropriate remedy to address the collection and the contents that have been collected in a manner inconsistent with the law and the authorities of the collecting agency.

This amendment does not fix a problem with the statute. Instead, it potentially creates a problem that could have unintended operational consequences for our intelligence community. They don't need any more burdens. They have all the challenges they need in trying to intercept, translate, incorporate, and divine the intents of terrorists. There is more than enough work to do for our intelligence analysts just to stay within the existing boundaries we have applied in the protection for American citizens, without them having to fear we will lose vital foreign intelligence collection information because there was some minor deficiency that may later be identified by the court. That would make our country less safe and it is not warranted.

Therefore, I encourage my colleagues to join me in voting against this amendment.

I yield the floor to my colleague, the chairman.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Senator FEINGOLD's amendment concerns the effects of a court determination that there are deficiencies in the Government's procedures under the new authority. This is a complicated issue and I think it is important to explain why I cannot support this amendment.

I wish to add that what the vice chairman and I both believe all of this is going to be litigated in the courts for decades to come, and all that is said here by us and everybody else becomes an important part of the record.

Under the Intelligence Committee bill, the FISA Court is required to review the Government's certification, targeting procedures, and minimization procedures to ensure their adequacy. If the court finds a deficiency in either the minimization or targeting procedures, the Intelligence Committee bill requires the Government correct the deficiency or cease the acquisition.

The Feingold amendment goes beyond requiring that collection be terminated or deficiencies corrected. It restricts the use or disclosure of any information collected that concerns U.S. persons.

Unless the Attorney General determines the information indicates a threat of death or serious bodily harm or the person consents, the amendment would prevent the Government from sharing or disseminating with anyone in the Federal Government any information already acquired under the new procedure that concerns U.S. persons.

I can understand that there may be, at first glance, some appeal to that idea. Senator FEINGOLD, for example, has said it is important to ensure there are consequences when the Government has not adequately developed its procedures. Hard to argue.

But looking at the consequences of this amendment in more detail makes it clear the provision is impractical. And it creates serious risks that we will lose valuable intelligence.

The language of the Senator's amendment is taken from the emergency provisions currently in FISA. Under those provisions, the Attorney General can authorize electronic surveillance without a court order in an emergency, as long as an application for an order is submitted to the court within 72 hours. If a court does not approve the FISA collection on an individual target after this emergency intelligence collection has begun, FISA prevents the intelligence collected from being ''used or disclosed in any . . . manner by Federal officers or employees without the consent of such persons,'' unless the Attorney General determines the information indicates a threat of death or serious bodily harm.

The impact of this existing emergency provision in FISA, however, is far different than the impact of Senator FEINGOLD's amendment.

In contrast to limiting the use of a small amount of information collected on one target during 72 hours of emergency procedures, Senator FEINGOLD's amendment potentially limits use of all information gathered through a new system of intelligence collection. To understand why these are different situations, it is useful to consider the difference between traditional FISA applications and orders and the new title VII provisions.

Unlike traditional FISA applications and orders, which involve collection on one individual target, the new FISA provisions create a system of collection. The court's role in this system of collection is not to consider probable cause on individual targets but to ensure that the procedures used to collect intelligence are adequate. The court's determination of the adequacy of procedures, therefore, impacts all electronic communications gathered under the new mechanism, even if it involves thousands of targets. I will repeat that.

Senator FEINGOLD's amendment applies to all of this intelligence collection. If the court finds a deficiency that the Government does not correct within 30 days, the Federal Government could not disclose any information on U.S. persons that was gathered as part of the new intelligence collection system without the consent of the person.

Thus, unlike existing emergency procedures, which limit the use of a small amount of intelligence gathered over a 72-hour period on one target, Senator FEINGOLD's amendment would potentially restrict the use of large amounts of intelligence, without regard to the importance of the intelligence.

In addition, under the Feingold amendment, intelligence analysts would have to determine whether the collected intelligence contained information concerning U.S. persons. The Feingold amendment would require the intelligence analysts to sift through all of the intelligence collected under the new process in order to identify information potentially subject to restriction.

As part of that process, analysts might be required to look at information that had not previously been analyzed in detail because it did not appear to contain significant foreign intelligence information, in order to determine whether the information concerned U.S. persons.

Senator FEINGOLD's amendment, therefore, has the potential to be more intrusive of U.S. privacy interests than the initial collection.

Finally, this limitation on use applies regardless of what deficiency is found by the court, as long as the deficiency is not corrected within 30 days. Even if the court finds a minor deficiency in the procedures and the Government is acting in good faith to correct it, this provision would require the intelligence community to prevent any disclosure of the information.

Please consider that, Madam President—to share with nobody in the Government.

In sum, this provision could restrict the use of significant amounts of intelligence based solely on minor deficiencies in procedures. It may also require the intelligence community to focus its analytical resources on satisfying this provision rather than on collecting and analyzing the intelligence needed to protect this country.

In my view, this allocation of resources makes no sense. I therefore cannot support this amendment.

I reserve the remaining time, which is about 4 minutes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, let me agree with the Chair that it is important to clarify what these amendments do and do not do, not only for purposes of voting on the amendment, but for any court consideration of this issue.

The arguments of the chairman and ranking member do not relate, in many cases, to the amendment that has been put forward. The Senator from Missouri just made the argument that my amendment differs from the use limit provisions for emergency surveillance because my amendment would limit the use of information about foreign targets. But that is not true. That is not the amendment I offered. My amendment only puts limits on information about U.S. persons. The Government can always use information about foreign persons.

With regard to the comments of the Chair of the committee, the supposed burden of identifying which communications involved U.S. persons only comes up if the Government starts its targeting procedures before it gets court approval, and then fails to keep track of what it is collecting during that time. And it only comes up if the Government procedures are targeting Americans in the United States, in which case I think there are overwhelming policy and constitutional reasons why this information needs to be retrieved and its use limited.

Moreover, if the intelligence community is concerned about this potential burden, it can do what it says it already does with information gathered using the PAA, and that is to label it. Then it shouldn't have any problem finding it later on; it shouldn't be cumbersome.

The arguments of the chairman and ranking member would yield the following result: We set up rules for the Government, the Government doesn't follow the rules, and there is simply no consequence at all. The law has no teeth. There is no incentive for the Government to follow the rules.

Again, under my amendment, the Government can use information even about U.S. persons if it indicates a threat of death and serious bodily harm, and the FISA Court can allow the Government to use any information if the Government fixes the defective procedures. On that point, I am very troubled by the arguments of the Senator from Missouri. He says that my amendment will not even allow the Government to fix the problem with its procedures. That is absolutely false. I specifically stated that the Government is given an opportunity to fix the problem. If it fixes the problem, the FISA Court can allow it to use the information.

If the Government gets a complete free pass and faces no consequence whatsoever for adopting and implementing unlawful procedures, then the law's requirements for targeting and minimization procedures and the FISA Court's oversight of these procedures have no meaning. The Government would be allowed to intrude on the private conversations of Americans with no consequences.

This amendment contains a very modest series of provisions. It gives the court and the Government tremendous flexibility. If the Government makes even a reasonable effort to address the concerns of the FISA Court, there will be no disruption of the information the Government needs—and, of course, none is intended.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, in two sentences, thousands of targets in the Senator's amendment, thousands of targets, all foreign means hundreds or thousands of pieces of intelligence. Intelligence does not come as one lump. It is an enormous array of collection of all kinds of things which are stitched together over time. All that intelligence could be lost under the Feingold amendment if there were only U.S. person information that was involved.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, in response to the Senator from West Virginia, it is true that the use limits in my amendment would apply to any information about U.S. persons gathered under unlawful procedures, other than information indicating a threat of bodily harm. That is why the amendment provides significantly more flexibility to the Government than the use limits for emergency surveillance. The FISA Court can allow the Government to use even information about U.S. persons as long as the Government corrects the defective procedures. That is a huge exception that is not present in the emergency use limits provision.

The PRESIDING OFFICER. If the Senator will suspend, the Senate is operating under a previous order for 5:20 p.m.

RECOVERY REBATES AND ECONOMIC STIMULUS FOR THE AMERICAN PEOPLE ACT OF 2008—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the time until 5:30 p.m. is to be divided between the two leaders or their designees, with the Republican leader controlling the first 5 minutes.

Who yields time?

Mr. ROCKEFELLER. Madam 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. BAUCUS, 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. BAUCUS. Madam President, the Book of Proverbs teaches:

> Listen to your father, who gave you life, and do not despise your mother when she is old.

This afternoon, the Senate will begin to address whether we honor our mothers and fathers, our grandmothers and grandfathers. The Senate will begin to address whether we extend needed stimulus checks to 20 million seniors whom the House of Representatives left behind.

The author Pearl S. Buck said:

> Our society must make it . . . possible for old people not to fear the young or be deserted by them, for the test of a civilization is the way that it cares for its helpless members.

This afternoon, the Senate will begin to be tested. The Senate will be tested whether it cares for 20 million seniors or deserts them, as did the House of Representatives.

America's seniors deserve to get stimulus checks every bit as much as other Americans. They worked hard, very hard all their lives. They paid a lifetime of taxes. They contribute to the economy. And with the economy turning down, seniors can use the stimulus checks every bit as much as other Americans. Everyone knows the Social Security check does not pay the bills. The average retiree's Social Security check is about $1,000 a month, and with the current hard times and gas, food, and health care costs all increasing, it makes it even more difficult for them.

Two out of three Social Security beneficiaries get most of their income from Social Security. Two out of three get most of their income from Social Security. Social Security is the only income for nearly one in five seniors, and without Social Security, most older Americans would live in poverty. Without Social Security, more than 50 percent of senior citizens would be living in poverty today.

Because they can use the money, seniors are excellent targets for economic stimulus checks. Because they can use the money, they will spend it quickly.

The chart I have next to me is a reminder that the Senate bill provides rebate checks for 20 million Americans. The House of Representatives excludes rebate checks for these 20 million Americans.

Americans over age 65 spend 92 percent of their incomes. Households headed by a person over age 75 spend 98 percent of their income. That is higher than any other demographic group over the age of 25. Seniors spend their money. That means checks sent to seniors will have a greater bang for the buck in terms of helping the economy. The Finance Committee amendment will help 20 million seniors left out of the House bill. The Finance Committee amendment will provide seniors with rebate checks of $500, and the House bill will not help those 20 million seniors.

The Finance Committee amendment will also provide rebate checks for a quarter of a million disabled veterans who receive at least $3,000 in nontaxable disability income. The Finance Committee amendment would make them eligible to receive the same rebate checks as wage earners and Social Security recipients. It is not right to

exclude 250,000 disabled veterans from getting a rebate check, which is what happened under the House bill. Those folks will get rebate checks under the Senate bill and the Veterans' Administration will distribute the rebates. The House bill, again, does not provide disabled veterans who don't pay taxes with rebate checks.

The Finance Committee amendment would provide an additional 13 weeks of unemployment insurance, and high unemployment States will qualify for an extra 13 weeks. The House bill does not provide an extension of unemployment insurance, whether it is 13 or the extra.

Almost a million more Americans are unemployed today than there were a year ago. One million more are unemployed today than a year ago, and 69,000 additional unemployed workers filed claims last week.

The Finance Committee amendment has been endorsed by AARP, the Seniors Coalition, Veterans of Foreign Wars, Military Officers Association of American, Vietnam Veterans of America, the American Legion, the United Spinal Association, and the Disabled American Veterans.

Again, seniors groups and disabled groups strongly endorse the Finance Committee amendment, clearly because they get benefits.

Let us listen to our fathers who gave us life and not despise our mothers. Let us not desert our seniors or disabled veterans or unemployment workers. Let us move to proceed to the stimulus bill.

Madam President, I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will report.

The bill 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 the consideration of Calendar No. 566, H.R. 5140, the economic stimulus bill.

Max Baucus, John D. Rockefeller, IV, Kent Conrad, Jeff Bingaman, Blanche L. Lincoln, Debbie Stabenow, Maria Cantwell, Ken Salazar, Herb Kohl, Daniel K. Inouye, Byron L. Dorgan, Mark L. Pryor, Robert Menendez, Jon Tester, Christopher J. Dodd, Barbara A. Mikulski, Joseph I. Lieberman.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of Calendar No. 566, H.R. 5140, an act to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. DEMINT), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Carolina (Mr. GRAHAM), the Senator from New Hampshire (Mr. GREGG), the Senator from Arizona (Mr. MCCAIN), the Senator from Louisiana (Mr. VITTER), and the Senator from Mississippi (Mr. WICKER).

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

The yeas and nays resulted—yeas 80, nays 4, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—80

Akaka	Durbin	Murkowski
Alexander	Ensign	Murray
Allard	Enzi	Nelson (FL)
Barrasso	Feingold	Nelson (NE)
Baucus	Feinstein	Pryor
Bayh	Grassley	Reed
Bennett	Harkin	Reid
Bingaman	Hatch	Roberts
Bond	Hutchison	Rockefeller
Boxer	Inhofe	Salazar
Brown	Inouye	Sanders
Brownback	Isakson	Schumer
Bunning	Johnson	Sessions
Burr	Klobuchar	Smith
Cantwell	Kohl	Snowe
Cardin	Kyl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Stevens
Cochran	Leahy	Sununu
Coleman	Levin	Tester
Collins	Lincoln	Thune
Conrad	Lugar	Voinovich
Cornyn	Martinez	Warner
Craig	McCaskill	Webb
Crapo	McConnell	Whitehouse
Dodd	Menendez	Wyden
Dole	Mikulski	

NAYS—4

Coburn	Hagel
Corker	Shelby

NOT VOTING—16

Biden	Dorgan	McCain
Byrd	Graham	Obama
Chambliss	Gregg	Vitter
Clinton	Kennedy	Wicker
DeMint	Kerry	
Domenici	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 80, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

Mr. REID. Madam President, I have been told by the Republican leader what to me is incredible. We have two issues this week, among others, that we need to complete. One is the stimulus package, and the other is FISA. They are not in order of importance, but they are both issues we need to complete. I have been told we are not going to do anything. That is why I had to have the vote called before 6 o'clock. The 30 hours will run out a few minutes after midnight tomorrow night.

Now, they are going to waste 30 hours of the people's time on nothing. They will not allow us to work on FISA to complete it. The President said he is not going to extend it any more than one time for 15 days. We wanted to finish this piece of legislation. They are not allowing us to work on it.

On the stimulus package, the President told us last Saturday in his radio address: We need to have Congress complete this.

We are trying. We are trying, but we are told now that, no, we cannot do this. We need the 30 hours postcloture.

I hope everyone can understand what we are trying to accomplish. We are trying to accomplish the work on the Foreign Intelligence Surveillance Act that the President said he so badly needs. We are trying to complete the stimulus package the President so badly needs. We have the House bill. We just voted to proceed on that. Now we are going to use the 30 hours postcloture, which, to me, is something that is difficult to comprehend.

But, of course, why should we be surprised? Last year, the Republicans filibustered 64 times—64 times—wasting the people's time, breaking all records. They broke the 2-year record in 1 year in the number of filibusters. But here we are starting again—the same thing. Rather than legislate, maybe they are afraid these votes that have been worked out on the Foreign Intelligence Surveillance Act—maybe they are afraid some of them will pass, or maybe on the stimulus package, the Finance Committee package that we have, which is tremendous.

What does it do? It includes 21.5 million seniors who are not in the package we got from the House, 250,000 disabled American veterans who are covered. Unemployment benefits are extended. People who have been out of work for 13 weeks or more will get additional unemployment benefits. That is in the package that was brought to us on a bipartisan basis by Senators Baucus and Grassley.

In addition to that, we have provisions in this bill that are so important to our staggering economy. The homebuilders are in town. They are running ads on television. They are visiting Republican offices tomorrow to say: Vote for this. They need it because it has a tax provision in there, a loss carryover that will allow them to continue building homes, getting people in homes. It is so very important we do this.

As I told the Republican leader, we are also going to add something that was not in the Finance package that will allow people who have no money, the so-called LIHEAP people, who do not have the money to pay their heating bills—they have to make a choice

on whether they are going to have warm houses, whether they are going to be able to get their drug prescription filled, or whether they are going to be able to buy some groceries this year. We have money that will help, and it will go right into the economy. Everything I have talked about will stimulate the economy. Are the Republicans afraid that we will bring this matter to the floor, and it will pass? Because it certainly should pass. Economists up and down the line—conservatives, liberals, moderates—say this is what is needed.

We are not complaining about the House package. It was a good first step, and we appreciate what they sent us. But it is a first step. And shouldn't we be legislating here rather than stalling for time for fear somebody is going to have to take a tough vote either on the Foreign Intelligence Surveillance Act or on the stimulus package?

We are ready to work, as we were all last year. We were at a disadvantage early in the year. Of course we were, because TIM JOHNSON was sick. He is not sick now. He walks into this Chamber like any other of the 99, and he is ready to work as many hours as we have to work. But now we have a majority, 51 to 49, not 50–49 anymore.

On the package we are going to vote on, whether they make us wait until Thursday or Wednesday, whenever it is, we are asking nine Republicans of good will to vote with the American people and pass this stimulus package.

I have said before—this morning—this matter has to go to conference anyway. We are not slowing up or stalling anything. It has to go to a conference because this House package allows benefits to go to people who are undocumented, and that should be changed.

I am dismayed we are going to have to stay in session tonight and do nothing and all day tomorrow and do nothing. But that is what I have been told. And I think it is incredulous, amazing, and not very good for the American people.

The PRESIDING OFFICER (Mr. SANDERS). The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, if we ended up doing nothing tomorrow, that would be like last Tuesday, last Wednesday, and last Thursday, in which we could never get a vote. On Tuesday, Wednesday, and Thursday we could not get a vote because we could not get an agreement on the FISA bill.

Finally, last Thursday night, we get an agreement on the FISA bill, and the majority leader tells me he will give us the paper—in other words, what he wishes to bring up on this stimulus package—last Thursday night. In addition, last Thursday, he says if that is defeated, of course, we will amend the House bill. Neither of those things apparently is going to happen.

No. 1, we got a few moments ago the version of the Senate Finance Committee package that the majority leader wants to call up. We wish to read it. It is a fairly extensive package. Secondly, apparently it is no longer the case that if this package is not approved that we will amend the House bill. We all know the House bill needs to go back because it needs to be fixed because of the illegal immigration problem.

The majority leader has been arguing all along that the House bill was inadequate. So it would make no sense at all, if whatever the final version of the Finance Committee provision is not approved, why we would not want to add seniors and veterans and fix the immigration problem to the House bill.

There is a certain amount of spin in politics, but this is beyond spin. These are the facts. Three days last week—Tuesday, Wednesday, and Thursday—there were no votes on FISA because we could not get an agreement. Finally, on Thursday, we get an agreement on the FISA amendments, and the majority leader tells me he is going to give us the paper on what he is going to bring up on the stimulus. We got it a few moments ago. It is not unreasonable for the minority to read the proposal. To suggest from that it is a certainty we will not have anything voted on tomorrow, I would suggest to my good friend, the majority leader, is nonsense. We will insist on reading it. It is in the process of being read now. When we read it, we will be happy to communicate further with the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, to show the absolutely dilatory tactics of this Republican minority, think about last week. My friend, the Republican leader, said we did not have votes last week. Why didn't we have votes last week? They would not let us have votes.

During the time that Rockefeller, Leahy, Bond, and Specter were trying to work something out on FISA, we wanted to finish Indian health. No, you can't do it. You can't do Indian health. Indians can wait another 6 years. They have waited 6 or 7 years during this administration. What is another few weeks for the Indians? They, according to the Republicans, don't matter that much anyway, as they have been treated like—the worst health care we have in America today is on our Indian reservations, and the Republicans don't seem to be at all concerned about that. So Senator DORGAN brought a bill to the floor, and we have been rocked and socked and pushed and pulled. We can't do that either.

The other thing we could have done last week—of course, we have an agreement to do a package that has been held up by the Republicans for a year dealing with bills that are some 45 in number—energy bills—that usually are handled just like that, in wrapup. Oh, no, not now, not with this Republican minority, we do not do them.

I suggested we go to those last week. No. Work out FISA, the President's favorite, his ability to spy. That is what he wants. The problem is that he wants to do it not in keeping with the Constitution, which raises some concern with us and the American people.

So, no, we could not do anything on Indian health, we could not do it on the energy package, until we got an agreement on FISA. It is obvious what is being done here. The Republicans are trying on FISA to do what they did last August. Even though the President has been forced to extend this for 15 days, they now want to do what they did in August: Stall it until the last day so we are forced to do something here and send it to the House so the House has no time to do anything about it.

The House has passed something. What we want to do—what we think is good government—is pass the Foreign Intelligence Surveillance Act, and do it quickly so the House and the Senate—Democrats and Republicans—have an opportunity to work together to come up with something to give to the President that is not 1 minute before midnight on the last day of that legislation.

It is not as if this picture has not been seen before. This is the same picture we had to deal with all last year—all last year. Every inch we have been able to grind out has been tough because there has been a stall that has been ongoing with this White House and this Republican minority.

For 6 years, Congress was ignored by this President—ignored. There was not—in his mind, there was not a legislative branch of Government. He did not have to deal with it because the Republicans in the House and the Senate gave him anything he wanted. Why wasn't there a veto? Because there was nothing to veto. He got everything he wanted.

Last year, suddenly some people in the White House, at least, came to the realization that there was another branch of Government that the Founding Fathers put in the Constitution. So last year they were forced to realize that there was a legislative branch of Government. We had to prove to the President that we were part of the process. We were able to get some things done, but it was difficult, and we had 64 filibusters to overcome. I would have thought this year would be a little different. We have a Presidential election. We have many Senate seats that are up. I would think the Republicans would like to get something done this year. I would have thought this continual stalling that is going on might reflect on these elections we are going to have next November, that maybe there would be a new day in Washington, that the Republicans are used to being in the minority and would try to work with us on a bipartisan basis to get some things done. But it does not appear that is the way it is going to be. If that is the way it is going to be, that is the way it is going to be, and we will continue to work around their dilatory tactics.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, we have before us—last week and this week—two measures that are overwhelmingly bipartisan. We have a FISA proposal—Foreign Intelligence Surveillance Act proposal—we tried repeatedly last week to get some votes on, and to no avail. That came out of the Intelligence Committee 13 to 2—the Rockefeller-Bond bill—overwhelmingly bipartisan, which would be signed by the President. That would be a significant accomplishment on a very important issue to the American people.

With regard to the stimulus, the American people witnessed something they rarely see. They saw the Speaker of the House—a Democrat—the leader of the House Republicans, and the Secretary of the Treasury have a joint press conference among the three of them, indicating they had an agreement on a stimulus package that we could pass rapidly.

Senate Republicans have been prepared to do that. It came over to us January 29. The majority leader felt that the Senate Finance Committee needed to reconvene and do it a different way.

This was a situation where you had the Democratic leader of the House, the Republican leader of the House, the Republican leader of the Senate, and the President of the United States all on the same side. That is pretty close to bipartisan. But, no, my good friend, the majority leader, said the Senate needed to do it differently, in spite of the fact that everyone was saying the two most important things to do with regard to a stimulus package were to keep it targeted and do it quickly. We had an opportunity to do that. We may have an opportunity to do it again. But make no mistake about it, no amount of finger-pointing or no suggesting that just because you file cloture motions, that amounts to a filibuster. Nobody believes that. You can't just run around routinely filing cloture motions on everything and then claim there are filibusters going on.

In fact, the message from the last session was: When you meet in the middle, you get things done. It finally happened in December: an omnibus spending package that met the President's top line, $70 billion for Iraq and Afghanistan without strings attached, an AMT without raising taxes on anybody else, and an energy bill that neither raised taxes nor raised rates in the Southeast. All of that was accomplished at the end by meeting in the middle.

Now, in spite of all of this back-and-forth between my good friend, the majority leader, and myself, we are pretty close on these two issues as well. The American people are expecting us to cooperate. But I repeat: We are going to read the proposal which we got some 15 minutes ago. I don't think anybody in America would think that is an unreasonable request. When we get through reading the new stimulus proposal, which I was told we would get last Thursday night, we will respond to my good friend, the majority leader, and we will see how we can go forward to accomplish two important things for the country. In the end, they will be done and must be done on an overwhelmingly bipartisan basis.

I yield the floor.

Mr. REID. Mr. President, to show you, with all due respect, how shallow this statement just made by my friend is, let me just say this: It is a public record, what came out of the Senate Finance Committee. It is a public record. You can read it on the Internet, what is in the stimulus bill. It came out days ago—days ago—not Monday, not today, but days ago. Last week, it was reported out. I believe it was on a Wednesday that it came out. I told my friend that we added LIHEAP to it. One reason I added it is because the Republicans want LIHEAP. Republicans want it. Why not have a chance to vote on it? So to talk about: We want a chance to read this bill—this is really something.

I cannot take any more lectures on the bipartisan nature of the Intelligence bill because it was referred at the same time to the Intelligence Committee and to the Judiciary Committee. That is the way it is sometimes around here. There are joint referrals.

Now, I admire people who have had us take a close look at what is going on with spying in this country, OK? Senator FEINGOLD and Senator DODD are the leading advocates of taking a look at this bill. Are they saying we are not going to have a bill? No, they are not saying that, but they are saying it needs to be improved. So, yes, it came out of the Intelligence Committee on a bipartisan basis, and that is good, but the Judiciary Committee wanted to put their stamp on it, and they did, and big time. A number of the amendments that were offered today and will be offered whenever we have the ability to go back to the bill are measures that came from the Judiciary Committee.

We want to work to get things done, but we don't need excuses such as: We need to read the proposal—30 hours to read the proposal, and in the meantime we are doing nothing.

Last week, I repeat, we had a lot of we could have done. We were prevented from doing that while this very difficult agreement was reached on the Foreign Intelligence Surveillance Act.

Mr. President, let me just say this: People around here in the Senate, in the country, know me by now. I pretty much call things the way I see them. Sometimes I need to step back a little bit and look at how I see them.

I want to say to my friend, my friend from Kentucky, the word ''shallow'' was improperly descriptive. So I will have that stricken from the record and insert therein—let's see, what word? Something that I didn't agree with, OK?

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. I thank my friend, the majority leader. It is, it seems to me, possible to have a civil and spirited debate without violating rule XIX, and I appreciate his withdrawing that comment.

I see the Republican whip is here on the floor.

The PRESIDING OFFICER. The Republican leader has the floor.

Mr. MCCONNELL. It looks as if I may lose the floor, so I wonder if the Senator from Arizona has a question.

Mr. KYL. I do have a question. This is why I was trying to get the attention of the minority leader just a moment ago.

I am on the Finance Committee, and I am very familiar with the Finance Committee bill. Now, I am certain the majority leader did not mean to suggest that the proposal we were just handed is, in fact, a bill that passed the Finance Committee. It is more than that, is it not?

Mr. MCCONNELL. Yes. It is my understanding—again, we just got it 15 minutes ago. In response to the question of the Republican whip, we are not sure what is in it, but our impression is that it may not be what came out of the Finance Committee last Thursday.

Mr. KYL. If I could ask just one more question, I just asked my staff. I haven't had a chance to read it yet. My staff has begun to look at it. I would simply represent what my staff said, which is the first thing they noticed is that there is an additional $1 billion—$1 billion in spending on a program called LIHEAP. Is the minority leader aware of that yet?

Mr. MCCONNELL. No, I didn't know because I haven't had a chance to look at it yet, but that would make it somewhat different from the Finance Committee bill, I gather.

Mr. KYL. It would, indeed.

The majority leader would like to comment.

Mr. REID. Yes. I said starting at 2 o'clock this afternoon and every chance I get that we added that, they didn't add it. I added it to the Finance Committee. I told the Republican staff, I told my friend this afternoon when we first—the first time we visited that LIHEAP had been added.

Mr. KYL. And there are some additional changes from the Finance Committee version as well; is that not true?

Mr. REID. Yes, there are some minor changes, but I say to my friend, who is a member of the Finance Committee, that we have made some changes, but they are very minor, other than the LIHEAP matter.

Mr. MCCONNELL. I am not sure who has the floor, Mr. President. Do I still have the floor?

The PRESIDING OFFICER. Yes.

Mr. MCCONNELL. I will be happy to yield the floor.

Mr. DURBIN. Would the Senator yield for a question?

Mr. MCCONNELL. I am happy to yield the floor as I see there are others who wish to speak.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I have been trying to get to the floor since this morning—well, actually, since we came into session at 2 o'clock. We have had a very spirited debate about FISA, and now we have invoked cloture on the stimulus package just to begin this debate. I also want to add my voice of distress that we may be facing a slowdown here on the stimulus package.

We are in a recession in California. This isn't a recession ''maybe''; this is a recession in California. There are several States that already have begun a recession, a real recession, including a contraction in jobs, and a housing crisis that has hit our State.

We can't wait. When the minority leader, the Republican leader, says: Oh, my goodness, LIHEAP was added to the package—of all people who understand this, it is the Presiding Officer. LIHEAP is a program that has been around for a very long time, and it is low-income energy assistance. To express shock that this would be added to a stimulus package or to say we need hours and hours of delay to study the impact of adding LIHEAP, it just strains credulity.

Would my leader like me to pause for a question?

Mr. REID. Mr. President, I appreciate very much my friend yielding to me.

Lost in all this debate about spending is I would hope everyone would understand that we always knew the stimulus debate would not be completed until Wednesday. That is when the vote will take place, at the earliest, on the package that came from the Finance Committee. What is stunning to me is we will not be able to finish FISA prior to Wednesday. We could start on that tonight. We have a number of amendments. I wanted to vote on those tonight. Of course, all day tomorrow, we could finish FISA. We could finish it tomorrow.

I want to make sure the record is very clear that they can spend all the time they want reading this amendment, which, by the way, doesn't add anything to the bill other than what we have—what I said: It adds to it housing language from the House bill which everybody approves of, and it adds some money to pay for some IRS things but a little, tiny bit of money. Anybody who reads this could do it very quickly and simply.

Why can't we work on FISA tomorrow? What would be wrong with that?

Mr. SCHUMER. Mr. President, would the leader yield for a question?

Mrs. BOXER. I have the floor.

Mr. SCHUMER. I am sorry. Would my friend from California yield for a question?

Mrs. BOXER. Yes, so you can ask a question.

Mr. SCHUMER. I thank the Senator.

So if the minority leader, the Senator from Kentucky, came down and he would give consent, we could go ahead and debate on FISA and actually finish it by tomorrow evening; is that correct?

Mr. REID. Yes. The reason it was so amazing to me, what I heard, is that postcloture people have 30 hours to basically stall for more time. I thought, why in the world wouldn't they let us finish FISA?

Now, everyone knows—and my Presidential candidates, when we had four and when we had two, have never missed an important vote. OBAMA and CLINTON will not miss this important vote we are going to have on the stimulus package, but I have to give them a day's notice to get here. With what is happening here—and that is why I had to hurry and call the vote before 6 o'clock, because the 30 hours runs out a couple of minutes before midnight tomorrow night. I have to file cloture tomorrow, which would be Tuesday, when we could have a cloture vote on the Senate stimulus package. What a waste of time.

So I say to my friend from New York, the answer is yes. The Republican leader only has to say: Well, let's go ahead and finish FISA, and we will decide what we are going to do after I read the amendment. If they decide that they are going to continue with the 30 hours running and they are not going to let us file cloture until tomorrow rather than tonight, they have that right.

Mr. SCHUMER. Would my friend from California yield so I might pose another question to the Democratic leader?

Mrs. BOXER. Yes, I will.

Mr. SCHUMER. So in other words—I just want to understand this, Mr. President—the FISA bill—which the President and many on that side said we should hurry up on, we should move quickly, it is important—is really what is at issue here. The whole debate about reading the stimulus bill, which we have heard from the minority leader and the minority whip, has no relevance for tomorrow, as the leader—our leader, the Democratic leader—has agreed we are not voting on it until Wednesday. But really the focus is on whether we could vote on FISA—this important bill which we need to get done quickly—and the minority is blocking that for no known reason.

Should the minority leader come to the floor within an hour and work it out and say that we could go forward on FISA, we could start voting on FISA tonight and tomorrow and perhaps finish it?

Mr. REID. We would finish it tomorrow. The only thing that might hold it up is there are a couple of Senators who might want to speak for awhile, but that is OK. We have a unanimous consent agreement that limits the number of amendments we are going to have on it, so we could finish it tomorrow for sure.

Mr. SCHUMER. Would my colleague yield for one final question?

Mrs. BOXER. Yes.

Mr. SCHUMER. I am a little confused. Does the majority leader have any idea why the minority would want to be holding up FISA?

Mr. REID. I sure do, I say to my friend.

Mr. SCHUMER. What would that be?

Mr. REID. There have been books written on this—books written on this—how the President has circumvented the laws we pass to have his wiretapping, OK? Now, there is not a single Democratic Senator who doesn't want to get the bad guys. We want to be able to do wiretapping so we can listen in on some of their evil conversations. But the President, you see, based on his past and how we have been treated here, doesn't want this FISA bill to change in any manner except to give them retroactive immunity; that is, to say to the phone companies: All the things you have done, good, bad, or indifferent, the courts can't look at it civilly. They can't look at it civilly. So the President wants to have that out of the way so that he can wait until the last minute to not have all these amendments that Senator FEINGOLD, Senator DODD, Senator LEAHY, Senator FEINSTEIN, and others have offered to improve this legislation, to make it more in keeping with the Constitution. So, as I have indicated earlier, I say to my friend from New York, they want to wait until the last minute. So that whatever we do here, the House will have to accept.

Mr. SCHUMER. I thank my colleague from California and the majority leader for that. Now it all becomes clear what the minority is doing.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I want to say, while my leadership team is here, I have just gotten the 2 pages—actually, it is 1½ pages—of the additional language on LIHEAP. The rest was taken verbatim from the House bill, which the President supports.

Mr. REID. Has the Senator had time to read that yet?

Mrs. BOXER. I read it while the Senator talked with Senator SCHUMER.

This is LIHEAP, a program that has been around for decades. This is $1 billion to help people pay for the expensive cost of heating their homes. As I look at my friend, Senator SANDERS, who is in the chair, what a champion of this program he is—to those in the Northeast in particular.

I have to take the minority leader at his word. He says the reason he is holding everything up, he doesn't want to do any work—or do anything—because he must study this bill. If he were here now—of course, he is now gone, but Senator KYL is here—I would say let's read this together. This is easy, almost as easy as ''Jane and John took the dog for a walk.'' Yet, still, they come out here and are holding up the business of the Senate and the country.

Mr. President, I say to my leaders, look, we can argue about how many angels dance on the head of a pin, but 20 million seniors are waiting for this. They were left out of the President's and the House package.

I wish to say to my friend, Senator MCCONNELL—and he is not here right now—that this matters. When he says the deal has been cut, that the President agreed with the House, well, wait a minute, look at the Constitution. There is a Senate, there is a House, and there is a President. We work together. We work our will, they work theirs, and we get together and compromise.

Twenty million seniors were left out, and we are fixing that. What else? We are also fixing the fact that they left out 250,000 disabled veterans. So why are we holding up work on something as simple as that? The answer comes back in a very convoluted way. I just have to say to someone who represents a State that is in a recession—and I know the State of the Senator from Nevada is in a recession. Many States are in a recession.

The President said we should act and we are not acting; we are not acting on FISA. Again, to respond, Senator BOND and Senator ROCKEFELLER agree on how to fix the Foreign Intelligence Surveillance Act. Well, good for them. But guess what. The Senate has to debate that and work its will.

Some people think the phone companies should have immunity. Some of us other folks think that if you give them immunity, you will never find out who was spied on and how, why, and how long they were spied on. We feel strongly. Is the minority suggesting that because two Senators agree, the rest of us are ''chopped liver,'' as my mother would say?

This place is like ''Alice in Wonderland.'' Tonight, more than any other night, it is like ''Alice in Wonderland.'' You have a President who is scared about the economy. He is begging us to act on the stimulus package, and we have intelligent Senators stand up—and they are very smart—on the floor saying: Oh my goodness, you added LIHEAP, and now, we are sorry, we are holding everything up. And then they said maybe they won't. I hope they will not.

While I support, with every fiber of my body, the Senate package, it is just the start of what we need to do. Until we start paying attention to the needs of the American people and end the war in Iraq, which is stealing our treasure, both in our young men and women in uniform and our money, we will never get where we need to get.

Mr. REID. Mr. President, will my friend yield?

Mrs. BOXER. Yes.

Mr. REID. Did the Senator know that before the night is out, I am going to come to the floor and ask unanimous consent to be allowed to proceed, during the 30 hours they are going to try to use postcloture on the motion to proceed to the House-passed stimulus package—that during the 30 hours, we be able to proceed to work on the FISA amendments? Is the Senator aware that I am going to do that?

Mrs. BOXER. I am very glad the majority leader is going to do that because the President—not only is he pushing us to pass his version of the stimulus package—and he is worried about it; he is scaring the American people, saying if we don't have FISA done, terrible things will happen. It is time to stop scaring the people and start protecting the people. That is what we want to do. So I am going to support the leader's call to move to FISA.

I believe if we have a debate on the stimulus and we don't talk about the biggest drain on our people—the Iraq war—we are missing the elephant in the room, because until we end this war once and for all and end this failed policy in Iraq, we are simply going to be dragged down further and further into an abyss, where we don't have the funds we need for the rest of the things we do, where our military is being stretched, and where we have no way out.

We actually have Republican candidates who are running for President saying we might be in Iraq for a hundred years. I have been around politics a long time—not quite a hundred years but for my adult lifetime. I have served with four Presidents from both parties. What an honor to have served with all of them. But I have never, ever worked with a President who didn't have a clue as to how to end a war he got us into—not a clue. I have never seen a President who hasn't given us some idea of how a war will end. So we need to remove this weight from around our necks. If we don't, my future, your future, the future of our kids and grandkids is not going to be what it ought to be.

We are spending $10 billion a month in Iraq. That is $2.5 billion a week and $357 million a day in Iraq. And the President and my Republican colleagues say we cannot afford to extend the stimulus package to include seniors and disabled veterans? Well, for the price of 1 month in Iraq, we can provide rebates to 20 million seniors who need it the most. Let me say that again. For the price of 1 month in Iraq, we can provide rebates to 20 million seniors who need it the most.

I hope the senior citizens within the sound of my voice have already contacted us to tell us to cover them in this recovery package. They are the ones who really need it the most because they are living on a fixed income and they are struggling. Some of them have to cut their pills in half every day they have to take them to stay alive so they can stretch their medicine.

Well, the President and my Republican colleagues say we cannot afford to extend the stimulus package to include disabled veterans. That is why we have these charts made up here: 250,000 disabled veterans. I hope they are also calling. These are the folks who should be honored, loved, appreciated, but not just with words but by deeds.

Mr. President, I will tell you, for less than the cost of 1 day in Iraq, we can provide rebates to 250,000 disabled veterans—1 day in Iraq. We can take care of our veterans.

That is why we don't know why this stalling is going on. What about our kids? For less than the cost of 3 months in Iraq, we can enroll every eligible child in the Head Start Program and give them the start they deserve. For the cost of 2 weeks in Iraq, we can provide health insurance for 6 million uninsured children in the United States for a year. The list goes on and on.

Last year, in the name of budget austerity, the President vetoed children's health care. But he has an open checkbook for Iraq. He puts it straight on the debt. He vetoed critical investments in our infrastructure.

Mr. President, the occupant of the chair helped me when we worked together on the Environment Committee with Senator INHOFE. We overrode a veto because the President said: Sorry, we are rebuilding in Iraq. But we cannot afford to fix our infrastructure here in America. The President vetoed education spending and health research.

I don't know about my colleagues on the other side of the aisle, but when I talk to families, they are very scared now about a lot of things. One of those things is, is someone getting cancer or getting Alzheimer's, or is a child getting autism, and there are a lot of other fears. They are real fears because they hit millions of our families. But the President vetoed the bill that had that health research money in it. We were forced to cut back.

So where are we now? We are spending money we don't have in Iraq. Remember when Budget Director Mitch Daniels said the war would cost no more than $60 billion? Paul Wolfowitz assured us that with Iraqi oil revenue, the war would pay for itself. Some people said the war might cost $200 billion, and they were ridiculed as vastly overstating the costs. Well, the President's most recent stimulus package is almost that.

The President has spent more than half a trillion dollars on his failed policy. There is no end in sight. It is shorting the funds we need to rebuild our own country—and it is borrowed money. It needs to stop. We are hemorrhaging taxpayer money in Iraq, and the wake is beyond disgraceful. For a base in Iraq that was never built, we paid a contractor $72 million. We paid them to build a barracks for the police academy in Baghdad, and instead we got a building with ''giant cracks snaking through newly built walls and human waste dripping from the ceiling.''

The administration loaded $9 billion in cash onto pallets and shipped it to Iraq, where it simply disappeared. And we cannot take care of 250,000 disabled veterans or 20 million seniors, and we cut spending to find a cure for diseases that ail our people. We cut funding from afterschool programs when our kids desperately need to have a place to go after school.

Mr. President, the Republicans are stalling because these facts, when we have these debates, are coming to light. So they are stalling. Can you imagine what would happen if $9 billion disappeared from a Federal grant in Vermont or California or Minnesota or New Jersey or Ohio? The people responsible would go to prison. But in Iraq, the President shrugged it off.

The President said we lack fiscal discipline. Yet, look what he has done to this budget. He took a surplus and turned it into a massive deficit, and he took a debt we were paying down and it exploded on his watch.

For him to say we are not fiscally responsible because we want to invest in our people, we want to invest in our infrastructure, we want to find cures for disease, and, yes, we want to invest in alternative energy so we don't have to be dependent on foreign oil and we can clean our air of the carbon dioxide that is warming the planet—fiscal irresponsibility? That is the name of the game with this administration, whether it is the missing billions or the bases that were never built or this enormous embassy that is being built in Baghdad. It is nothing short of breathtaking. The President and his supporters shrug their shoulders, and yet we cannot get to the stimulus package because somebody said they don't understand we have added $1 billion, 1½ pages to the bill to help poor people pay for energy. They have to be kidding. That is a stall.

The checkbook is open for Iraq; it is closed for America. This President wouldn't even be doing what he is doing now unless he is scared this recession is hitting.

Let me tell you what else we added to this stimulus bill that is being held up. We took the House language as it pertained to the housing crisis, and we increased the amounts that Freddie and Fannie and FHA can lend our homeowners to give them the chance to refinance these mortgages to keep responsible homeowners in their homes. We cannot wait on this provision. We can't wait on it. Thousands and thousands of cities are witnessing these foreclosures.

What happens when a home forecloses? The pool might go. The new owner of the home ignores keeping up the property, and it is a danger to have a pool that has not been attended to. Mosquitoes breed in the pool and the whole lawn gets all brown and the values go down and suddenly you have a downward spiral. We have to turn it around. But somebody has to hold up a bill because they have to read 1½ pages about LIHEAP, a program that has been around for decades and, by the way, supported on both sides of the aisle.

The toll this Iraq war is having on our Armed Forces is stretching our military to the breaking point. Recently, we learned with sadness in our hearts that suicide attempts among U.S. troops have reached a record high, a sixfold increase since 2002. Last year, the Washington Post reported there was a readiness death spiral, that is their term, that senior officers warn puts our Nation at risk because we lack the strategic reserve of ground forces to respond to potential crises throughout the world.

We are borrowing billions, putting that cost on the backs of our kids and grandkids, shorting our ability to take care of the people who need us now that the economy is in a downturn, and that hurts our security.

Mr. INHOFE. Will the Senator yield for a question?

Mrs. BOXER. As soon as I finish my statement, I will be happy to yield.

We have to ask this President: Why are we in Iraq? The answer depends on when he was asked. Once upon a time, we were told it was about weapons of mass destruction. Remember? We had to go find them. Our military found there were none. Then we were told it was Saddam's ties to al-Qaida. Well, there was no connection to al-Qaida. Then we were told we had to get Saddam's family and show their pictures to the world so the world knew America meant business. And we did that, and the fighting went on. Then we were told they need to have an election, and how proud we were when the Iraqi people went and as a free people elected their leaders.

All that happened. The President said: Mission accomplished. But it goes on and on because it is a changing mission every day, no vision of how to get out of this situation, and we have colleagues on the other side talking about us being there 50 years, 100 years, who knows, maybe 1,000 years. This is not at no cost or little cost. It is costing us an absolute fortune, and it is tied to this deficit because it is tying our hands.

The President says our commitment to Iraq is not open ended, and yet he will not tell the leaders over there: Get your act together because we have trained 500,000 of you and now it is your turn to stand up and fight for your freedom and fight for your democracy, frankly, the way we did and other countries do.

There is a point in time when you have given so much blood and treasure that you have to say: We want to help you, we will be there, but we will not be in the forefront of this fight.

We have never been leveled with. How many more brave men and women will die? Oh, we don't know. How many more will be wounded? We don't know. But what we do know is some of the wounded are coming home to my State and they are suffering, suffering, suffering. Yet in the President's stimulus package, there is no help for disabled veterans. No, oh, no, we couldn't do that. For a day of the cost of Iraq we can help them. That is why we want the debate and we want the debate to start.

The President says the surge will lead us to victory. We hope so, but the President says he knows it. How long will the surge last? It was supposed to provide a quiet time for the leaders to resolve their problems. It hasn't happened.

Our brave men and women in uniform have performed remarkably. They have done every single thing we have asked of them and more. But you know what, there has to be an end to this. As our military leaders tell us every day, there is no military solution to the situation in Iraq.

I said before we trained 500,000 Iraqis. I want to correct that figure. It is 440,000. That is how many Iraqis we have trained. Our taxpayers have laid the money out to train.

I think we ought to look at what the British did. The British were very clear. They said their presence in Iraq was fueling the violence, fueling al-Qaida, and it would be far better if they played a supportive role. And most of them will be gone. As a matter of fact, the coalition of the willing has been massively depleted.

There is a beginning, a middle, and an end to a mission. But you cannot change the mission every few months. It is not fair to our troops. It is sending a mixed message to the Iraqis.

Why do I bring this all up in the context of the stimulus? Because the outflow of money is hurting us. We cannot take care of America. I think we need to make a choice, and this stimulus package is the time for us to connect all the dots. This economic recession needs our attention. We need to put the resources to it so it doesn't become a deep and darker recession. We have to ask ourselves in the context of this debate: Is it time for America, for our families, for our soldiers coming home, for our children, or is it the time to continue an open-ended commitment to a war without an end, a price tag without an end, a war that is tying our hands as this recession becomes more real day after day?

Clearly, it is no surprise that I say it is time for America and it is time for change. I do believe the people out there, whether they are Democrats, Republicans or Independents, are crying out for that change.

I will also say, they may not all agree on one particular path, but one thing they want us to do is our job. They don't want stall tactics, they don't want delays, they don't want brilliant Senators coming to the floor and saying: Gee, there has been a change in this bill, and we need 30 hours to figure it out. Stay up until 10 or 11; you can read that part of the bill. It isn't complicated, and it isn't time to continue an open-ended commitment to a war without end.

As we try to soften the blow of this recession on the American people, let us understand that if we don't change when it comes to this war and start bringing our troops home and start giving the Iraqi leaders a signal that they need to take charge of their own country, I will tell you, I can't be part of

that kind of a value system because our people are suffering.

Again, my State is in a recession. I have sitting councilmen coming to me—by the way, not always in my party, believe me—saying to me: Senator, you have to help us. We are in a spiral. Help us. When I called and said help is on the way, we are going to raise those loan limits for Fannie, Freddie, and FHA, we are going to give the homebuilders some kind of a tax break, we are going to give a tax break to the alternative energy industry so they can start hiring people, they smiled, there is hope. But if they heard tonight the back and forth between the Democratic leader and the Republican leader and they heard the Republican leader say: We are really sorry we are going to hold things up because I have to read this bill when, in fact, the changes that were made are so minuscule we could read it in 10 minutes, they don't know what is going on, and they throw up their hands.

I am here tonight to tell them: Don't give up hope because we are motivated. We are motivated to get this package through. We are telling our seniors to let their Senators know, Democratic and Republican Senators, they need to be included, the disabled veterans, the homebuilders, the people who are struggling with their mortgages. We are on your side. If your voice is heard, even in this Senate, it will have an impact.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I think the Senator from California makes a compelling case to take up the stimulus package right away. The bill, by the way, is a 71-page bill. I do think we need a little opportunity to read through it. If, as the Senator says, there are only two or three changes to it, I am tempted to ask unanimous consent that we vote on that package tomorrow. The reason I will not is because I owe it to the majority leader to advise him in advance of making such a request, and I know what his response will be. His response, I believe, will be he has made a commitment to Senators who are campaigning for the Presidency that they will not have to come back tomorrow to vote. That is why we are not voting tomorrow. It is not that Republicans are trying to hold up things.

Yes, the minority leader made the point that since we just received the bill, we would like an opportunity to read it. I will get back to that in a moment. But the reality is, as the distinguished Senator from California said, why are we holding up work on this stimulus bill? We are not. As I said, I will be happy to move to vote on it tomorrow.

Mrs. BOXER. Will the Senator yield for a question?

Mr. KYL. I will yield to the Senator from California.

Mrs. BOXER. Now I am confused, truly, honestly. I thought Senator MCCONNELL said, after you informed him there were changes to the bill, that he was very concerned about that and he needed time to read the bill. That is what I heard both of you talk about. You came down and told him that. I heard that.

Then I heard Senator REID say: While you are reading this bill, let's get done with FISA. We can't seem to get that done. But it was my friend, Senator KYL, and my friend, Senator MCCONNELL, who said very clearly they needed time to read this bill. I pointed out that the bill—

Mr. KYL. So what is your question? What is the question?

Mrs. BOXER. My question is, if you want to go to it right now, why did you tell the majority leader that there were changes to it and you needed to read and take all 30 hours to read the bill? I don't understand.

Mr. KYL. Mr. President, the answer to the question, which is, Why don't we go to the stimulus bill; Why do we need 30 hours to read it, is, as I said, I would be happy to propound a unanimous consent request right now that we go to the stimulus bill and vote on it tomorrow. I will not do that because I know what the majority leader would say, which is, no, I will object to going to a vote on the stimulus bill tomorrow because I have told our Senate colleagues who are running for President and some others who are campaigning for them that we are not going to vote on it tomorrow. We are not going to have a vote on that, which they would miss, because it is too important. That is what he said a moment ago.

I said I would come back to the point of reading the bill, and I do want to get back to that because I do think we should read bills before we vote on them. But the key point here is that Republicans are not holding up action on this stimulus package. And for anybody on the Senate floor to suggest that we are, it is simply not the case. We voted overwhelmingly to grant cloture so we could take up the bill. I think all of the Democratic Senators voted to take up the bill. So we are on the bill. We are on the stimulus bill. But we can't vote on it because there has been a commitment to Senators who are running for the Presidency and some others that we won't vote on it tomorrow. Now, we didn't make that commitment. That commitment, I understand, was made by the distinguished majority leader. That is why I am not going to ask unanimous consent to try to embarrass people on the other side.

Let me get to the matter of reading the bill.

Mrs. BOXER. Will the Senator yield for a question? It is so confusing to me.

Mr. KYL. Well, Mr. President, I am sorry the Senator is confused, but let me continue on to make the point the Senator wanted to talk about, which is why we need to read the bill.

The bill was just handed to me by staff. I have not yet read it. It is 71 pages. Here it is. It starts out ''Strike all after the first word and insert the following.'' Well, if we are striking all after the first word, then I want to know what we are inserting. Now, the representation from Senators on the other side is that we have added $1 billion in spending on LIHEAP. There is a representation that in the bill there is an increase in the amount of mortgages that can be refinanced, and it was represented that is the same as in the House package. If that is the case, that takes the amount—I believe it is over $700,000.

I don't know a lot of low-income Americans who have mortgages of over $700,000 or mortgages up to $700,000. But as I understand it, if that is what the House bill provides for, and if that has been added to this bill, then that is what that provision would be. And the majority leader said there were some other small changes. I am not exactly sure what they are. It may be as simple as Dick and Jane, as the Senator from California said, in which case, as I said, perhaps we can go to it tomorrow. But, again, I don't think that is what the majority leader wants to do because of the commitments he has made to Senators who would have to come back here for a vote on it.

What is at work here is not that we are holding up action on the stimulus bill. What is at work here is a desire to move forward with votes on the FISA bill, which we are not on. We all voted to go to the stimulus bill, including all the members of the Democratic majority. If Members of the Democratic majority want to go on the stimulus bill, then let us consider the stimulus bill. If now the request is we just got on this, but now we want to go back to the FISA package, I wonder what it is about collecting intelligence on terrorists that is somehow less important than the stimulus bill so we can have the Senators vote on that but we can't have them vote on the stimulus package. These are both big important issues.

I don't want to come down here and engage in this tit for tat. I frankly think the American people are tired of it. They see all this bickering and they wonder why we can't get business done, why we can't get to solving these critical problems.

The Senator from California has made an eloquent plea for why we need to get out of Iraq, but we hear language like ''breathtaking irresponsibility'' and ''never worked with a President that didn't have a clue''—meaning this President doesn't have a clue—''about how to end the Iraq war. An earlier speaker said: The President wants to spy in violation of the Constitution.

Now, look, you can disagree with the President, but he doesn't want to spy in violation of the Constitution. He wants to collect intelligence on our enemies consistent with the Constitution. We can have legitimate debate and disagreement about whether what

we have done is constitutional. Some people might say no; others would say it is constitutional. But I do know this: Six months ago this body overwhelmingly—there may have been only one negative vote, I am not positive of that, but overwhelmingly—in a bipartisan vote we agreed to allow the collection of foreign intelligence under a particular regime for doing that, and it is that method of collection we want to reauthorize and we want to continue.

It is not just two Senators who decided to get together to develop a bill. By a bipartisan vote of 13 to 2 the Intelligence Committee agreed on the reauthorization and the method by which we have been collecting intelligence on our enemies for the last 6 months. Now, if we have been doing it for the last 6 months, and the Intelligence Committee by this bipartisan majority said let's keep on doing that, virtually no other changes except in one area dealing with liability protection for the communications companies, then I don't think it is fair to say this has all been done unconstitutionally. That would mean the majority, almost all Democrats, agreed to allow intelligence collection that was unconstitutional. That certainly isn't what my colleagues intended, what I intended, or what anybody else in this body intended.

So let us not say the President wants to collect intelligence that is unconstitutional and that is what we have been doing under a Senate and House-passed bill for the last 6 months. That is the kind of irresponsible debate the American people, quite frankly, are tired of.

The basic question that is before us tonight is, Shall we pass a bill that the majority leader has laid down dealing with stimulating the economy? We all just voted—virtually all of us voted—to take up the stimulus bill. We had hoped we would actually have this 3 or 4 days ago, but now we have it, and the majority leader has the absolute right to substitute what he wants us to consider, and he has done that. This is his proposal. And we have received some assurances as to what is and what isn't in it. I think we trust, but we also want to verify. As I said, it is 71 pages, but it shouldn't take that long for us to figure out whether there are other things in here other than what has been represented to us. If in fact it turns out that is the case, that all we have done is add another $1 billion in spending on the LIHEAP program, we have increased the amount of mortgages that can be refinanced up to 700 some thousand dollars—I think that is the number; I will read it here to make sure—and then some other minor changes, whatever those are, then, again, I would be perfectly happy to take up this bill tomorrow.

If I wanted to score cheap political points, I would do the same thing some on the other side have talked about, which is to say: All right, I ask unanimous consent that we take this up and vote on it. But I know there are people out campaigning. I know the majority leader has given them assurances they wouldn't have to come back for a vote on it. I respect that. It is a perfectly reasonable request. We can be taking the time now not just to ensure what is in the bill but to debate the bill, so that when we do vote on it, presumably the next day, we would have had our complete debate. It is not a waste of the American people's time for the Senate to take 1 day to debate a bill this important.

We don't have to be disagreeable about this. We can assure ourselves of what is in it and we can take tomorrow to debate it. A lot of the candidates are gone—presumably we don't want to ask them to come back to vote on it—so then we can vote on it the following day, and then take up the FISA bill, which is equally important, if not more important in terms of foreign intelligence collection. We have, what, another week or 10 days to complete work on that, with plenty of time to do it.

I think we should take a step back, not play political games here with the dueling unanimous consent requests to do something that does nothing but embarrass the other side. Let us get to the business of the American people, let us get a stimulus package voted on, let us then turn to the FISA bill and get the amendments voted on and pass that to the President before we take the work period off that we will be taking off in, what, 12 days or so.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I appreciate the constructive comments by my friend from my sister State of Arizona. As I understood what he said, he suggests we debate the stimulus package tomorrow and have a time certain to vote on the proposal that came from the Senate Finance Committee and do that all on Wednesday. Is that what my friend is saying?

Mr. KYL. I am very sorry. I apologize.

Mr. REID. No problem, I will repeat it. My understanding of what my friend from Arizona said is that you think we should debate the stimulus package tomorrow and have a time certain to vote on the Senate Finance Committee package on Wednesday.

Mr. KYL. Mr. President, I said it was my own personal view that we would not be wasting the American people's time to have a debate on the stimulus package and to have a vote on it on Wednesday. Obviously, I am not speaking for any of my other colleagues, and we would obviously have to do that, but if the leader is concerned about not having people come back for votes tomorrow, which is a perfectly reasonable concern, given the importance of tomorrow on both sides—there are Senators who are out campaigning, and I understand that is a very important proposition—then I think it is appropriate to wait until Wednesday to have a vote on the stimulus package.

Mr. REID. We only have three Senators out campaigning, MCCAIN, CLINTON, and OBAMA, and it was my suggestion that tomorrow, if the Republicans don't want votes, then shouldn't we at least have the ability to see if we can complete the offering of amendments on the FISA legislation? We can intersperse that with people who want to talk about the stimulus. They can do that.

I am happy to set a time certain on Wednesday so MCCAIN, OBAMA, and CLINTON know when to come back on Wednesday. I am happy to do that.

I understand my friend is saying that he is speaking for himself, and I appreciate that, but he is the second ranking Republican leader in the Senate. What I would suggest, Mr. President, is that he talk to whomever he needs to speak with—I am sure the Republican leader—to see if what he suggests is doable, and we will get that worked out tonight. And that is tomorrow we can come in, people can talk about the stimulus package all they want, and set a time certain on Wednesday to vote. That would save me having to file cloture on it either tonight or tomorrow night, which will happen. If I file it tomorrow night, the vote will have to be on Thursday. In the meantime, we have to wipe out a lot of time.

I think it is very important we get FISA done. The end is near on FISA. We have worked out an agreement to finish that bill.

So I say to my friend, if I came and offered a consent agreement in keeping with what your suggestion is, do you think you could get it approved tonight?

Mr. KYL. Mr. President, obviously, our colleagues are not here. I would not object to that kind of agreement. I don't know what others would do.

To be fair, did I represent the distinguished majority leader correctly, that you had assured Senators they would not be voting on the stimulus package tomorrow?

Mr. REID. Yes, I have said, starting at 2 p.m. today—I might even have said it last week—that I have two Senators, OBAMA and CLINTON, whom I would try to give at least 1 day's notice when a vote was to occur. That is why it is important to me, and I would think it would be important to Senator MCCAIN also, that we have a time certain on Wednesday to tell them when they have to be here. If we can't do it by agreement, then the only thing I can do, if the Republicans are going to waste all the time on 30 hours postcloture, I will have to, before midnight tomorrow, file cloture so we can have a Thursday cloture vote.

Mr. KYL. If I can respond, obviously, the majority leader knows I can't make that agreement here on the floor, but I will pass that on to the minority leader and consult with our colleagues and see what can be agreed to in terms of an agreement.

I think the majority leader is exactly correct. As a matter of courtesy to Members on both sides, it is probably

not the best idea to have votes tomorrow. It is an historic day in American history.

Mr. REID. If I can interrupt my friend, on FISA, I think we can easily have votes tomorrow. There would be no problem with that, because those votes, most of them, aren't going to be that close anyway. I think we need to work through that. I have told all my Senators we would do our best to try to have votes on FISA tomorrow.

Now, maybe this has been in the works for a long time, because one of my Senators told me she was coming over and one of the reporters said: No votes tomorrow, right? She said: What are you talking about? They said: Senator MCCONNELL has told his Senators there will be no votes on Tuesday.

So maybe this has been in the works for some time, that there would be no votes on Tuesday. But we may have a couple anyway, to make sure we have some. I do have that ability, to have votes. It may not be much on substance, but it will be votes, and it will be counted on Senators' voting records.

Mr. KYL. If I can interrupt, I don't think Senator MCCONNELL said that. And you can have votes tomorrow. I think our Members would be perfectly fine on any votes you want to call.

Mr. REID. Mr. President, I appreciate the constructive tone of my friend's statement, and either I or Senator DURBIN will tonight sometime offer a consent agreement so we can have a pathway to whatever we are going to do in the next couple of days.

The PRESIDING OFFICER. The Senator from Illinois.

UNANIMOUS CONSENT REQUEST—S. 2248

Mr. DURBIN. Mr. President, I ask unanimous consent that following morning business Tuesday, February 5, the Senate resume the FISA legislation, then proceed to a vote in relation to the four amendments that were debated today, with 2 minutes between each vote equally divided, and that on the disposition of those amendments, the Senate continue to consider amendments in order to the FISA legislation and that all time consumed during that debate count postcloture.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, for the reasons I expressed with the majority leader a moment ago in our colloquy, I must object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Mr. President, I understand that. I was not making an offer to put my colleague on the spot but merely putting on the RECORD, because I think the American people sense what is happening in Congress and Capitol Hill and the Senate.

I have been out watching the Presidential debates, both the formal ones and the presentations made by candidates. Change is the biggest word of this election cycle on both sides. I think it is evident the American people feel America is headed in the wrong direction by overwhelming numbers. When they look at Congress and Washington, they do not sense that we are sensitive to the real challenges families face every day. They listen, some of them do, particularly those suffering from insomnia, watch and listen to C–SPAN and wonder why, why all the quorum calls in the Senate? Why all the time wasted? Why not more votes on bills? If you are here in Washington, why not earn your keep?

Sometimes I wonder if this would be a better institution if Senators were paid by the production of this Chamber because certainly this week we are not likely to earn much pay. Last year, the Republican minority, and it was their right under Senate rules, were responsible for 62 or 64 filibusters.

A filibuster is an attempt to continue debate indefinitely rather than reach a conclusion and a vote. Sixty-four filibusters made an all-time record in the Senate for 1 year. Sixty-four times the Republicans said: Whatever you are doing, let it go on forever, let's not bring it to an end.

And that, unfortunately, meant many important issues were not voted on, were not decided. That is their right, the minority's right. It is the nature of the Senate to slow things down. But I think the Republican minority in this circumstance has taken it to an extreme.

I think it is this extreme that has led to the frustration across America as they try to witness what is going on in the Senate and wonder why more is not accomplished.

Well, what we have tried to do today, unsuccessfully, is to ask permission from the Republicans to make tomorrow a productive day, to make tomorrow a day when we can either debate the stimulus package, preparing for a vote on Wednesday, or consider amendments to the Foreign Intelligence Surveillance Act so we can move that bill toward passage; in other words, let's not waste a day. Let's not turn the lights on and bring all the staff out, turn on the television cameras and stand here before the microphones and say nothing and do nothing.

But the Republican position is to insist we do nothing tomorrow. Nothing. I made a request that we go to the Foreign Intelligence Surveillance Act. Now, this is the law the President is asking for, in fact demanding, on a timely basis. The President is saying: I need this authority to keep America safe. It took us a long time to work out an agreement on amendments. I am sure fingers can be pointed to both sides. But we reached the agreement on how many amendments, how many votes will be necessary.

Now I have made a request that we go to that bill tomorrow, let's not waste tomorrow, let's move on this important domestic security issue. Let's have our debate, let's have our amendments, let's move forward, let's get it done, let's put in a good day's work. And the Senator from Arizona, on behalf of his leadership, has objected.

It means tomorrow we will gather, we will bring in the Chaplain, he will say an inspiring prayer, we will say the Pledge of Allegiance, then we will figure out how to kill a day. That is what will happen.

We will fill the CONGRESSIONAL RECORD, there will be some interesting speeches, no amendments will be considered and voted on, no debate on the economic stimulus package, it will be a wasted day.

Can America, can the Senate afford a wasted day? We are in the midst of, or at least close to a recession, if not there. A lot of people are worried about it. People back in Illinois whom I represent are concerned about what is happening to our economy. We have a lot of folks with 401(k)s and IRAs and pension plans who look at the stock market on a daily basis and worry about their life savings and their retirement, as they should.

People are concerned if we slide into a recession there will be even more unemployment than was reported last week, on Friday, when we had sobering figures about the thousands of Americans who were out of work.

The President has expressed alarm about the state of the economy. All these things argue for us to move forward and do something. We can start doing something tomorrow. We can have a legitimate, substantive debate on the economic stimulus package and a vote on Wednesday. Now, would that not be historic, that the Senate would actually get an important measure out of the way in a matter of a few days? What is the difference between the Republicans and the Democrats at this moment on the economic stimulus package? I am not sure anymore. You see, the President's original position with the House, Democrats and Republicans, suggested we would be sending checks for $600 or $1,200 for a family, to individuals, to try to stimulate the economy and extra money for children if there are children in the family.

That is a good start. It is a start that we built on in the Senate Finance Committee on a bipartisan basis. In the Senate Finance Committee we said: Beyond those individuals covered by the House, we think 20 million seniors should receive this kind of rebate check as well. They will spend that money, many of them on fixed incomes, and stimulate the economy. Let us, in fairness, give them a helping hand.

I am not sure, as I stand here, whether the Republicans in the Senate are supporting this. Only three Republicans in the Senate Finance Committee voted for it. But what is at stake in our vote on the economic stimulus package is whether 20 million seniors in America will be included in the rebate checks. That is a pretty straightforward vote. You either think they should be or they should not be included. The Democrats think they should be included.

In addition, some 250,000 disabled veterans who receive compensation from

our Government for their disabilities for their wounds, we too believe they should receive a rebate. Some say they already get a check. That is true. But if any group deserves an extra helping hand, it is those who stood up and fought for this country and risked their lives for America.

I certainly believe 250,000 disabled veterans should be included in the economic stimulus package. I do not know if the Republicans now support that. As I said, three, only three in the Senate Finance Committee would vote for that.

We also have a provision which says that if you are unemployed, receiving unemployment compensation, we will extend your unemployment compensation benefits for a matter of 13 weeks. And if your State is hard hit by unemployment, 26 weeks. Most economists will tell you that is the easiest and quickest way to stimulate the economy, people who are unemployed are scraping by.

Every dollar received is spent to keep things together while they look for a job. Well, we think that group, which has historically been part of any economic recovery package, should be part of this package as well. Now, some of the Republicans object to it. They have said so publicly. They have a curious notion that if you give people 13 weeks of unemployment benefits, they will then decide to pull out the motor home and go on vacation and stop looking for work. I wonder if these same Republicans have taken a look at how much these people are paid. You know, it is not a princely sum. In many cases it is $500 a week, $500 a week for someone who has had a good job is not going to be enough to get by. Trying to survive for 3 months or 6 months on that could be extremely challenging. I think it is only right and just and fair and moral for us to say to unemployed families: Here is a little extra help so you can get by as we push toward and try to avoid a recession.

Some Republicans disagree. So perhaps that is the reason why they oppose the Senate Finance Committee package. There are other provisions there. You can argue them up or down. Should we have a provision, as the Presiding Officer from Vermont has asked for, to extend LIHEAP. This is the Low-Income Heating Energy Assistance Program. It is a way to help people pay utility bills who otherwise cannot afford to do it.

The Senator from Vermont who is presiding has been one of our leading spokesmen for that. Interestingly enough, as Senator BOXER from California mentioned earlier, the Republican leader said that was one of the reasons we could not take up the economic stimulus package, he had to read the provisions on LIHEAP because they are the only major change in this bill.

Those provisions take all of a page and three lines. I think any Senator could get through that without a lot of strain. You do not have to be a speed reader to understand exactly what it says.

So here we are again, as we were last year 64 times, the Republican minority doing everything they can to slow down the Senate, to stop us from considering important legislation, so at some later date they can complain that we have not accomplished enough. Well, you cannot have it both ways. You cannot object when we try to move to the FISA legislation and consider amendments and then say later we are not moving quickly or on a high priority.

You cannot object to an economic stimulus vote on Wednesday, as we try to schedule it and then object that the Senate Democratic leadership is not responsive to America's economy. We are going to do the best we can under the Senate rules. We are going to, unfortunately, kill a lot of time because of this Republican approach. It is their right under the rules. I do not question it. But I do question the wisdom of allowing this Senate to continue to move so slowly, to be so unresponsive, to spend so many wasted hours and wasted days for no earthly purpose.

It would be far better for those of us who were drawing a paycheck around here to roll up our sleeves and go to work, be accommodating to schedules as we must be, but for goodness sakes, would it hurt us tomorrow to take up these amendments to the FISA bill, to debate them and vote on them?

I think it would be a good, healthy thing. It almost would bring the Senate perilously close to being a deliberative body again, which we do not do enough of. I hope the Senate leadership on the Republican side will reconsider their position, will stop objecting to considering substantive amendments to important legislation that we ought to move as quickly as possible.

I will make a comment that I think most Members are aware of, but there will be no further votes today.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I know the Senator from New Jersey wants to speak, but since some of this was directed to my comments on the unanimous consent request, I think I should take a couple of minutes to respond.

Mr. LAUTENBERG. If I may have the courtesy of a question to the Senator from Arizona. My subject is away from the present discussion. Short subject. It talks about the pride we in New Jersey have about our Giants. But if I might have a few minutes?

Mr. KYL. Since we have had this discussion, let me take no more than 4 minutes. I will join the Senator in the pride he has for the Giants and their wonderful victory in my home State of Arizona yesterday. I hope a good time was had by all, including those who had their string broken.

I do wish to respond because there have been a couple suggestions made I think that are inaccurate. We are not going to come in tomorrow and have the prayer by the Chaplain and do nothing.

I hope that debate on the stimulus package is not perceived by people as doing nothing. All of us, almost all of us I think, everybody on the Democratic side voted to take up the stimulus bill. That is what we voted on an hour ago. We voted to take up the stimulus bill. Now we are on the stimulus bill.

I have not had a chance to speak on it yet. I would like to do that. Tomorrow is my opportunity. The majority leader is the one who said there would be no votes on the stimulus package tomorrow, not the Senator from Kentucky, the minority leader.

So the fact that we are not voting on the stimulus bill tomorrow has nothing to do with Republican delay. It is a commitment made by the majority leader. I have no problem with the commitment. There are people out campaigning. But that was the majority leader's decision not to vote on the stimulus bill tomorrow.

As I said, we voted for cloture for the House bill. I am happy to vote on the House bill. I do not know whether my other colleagues are going to be done debating this in 1 day tomorrow. But I do know this, we have gone to the stimulus package. We are going to be on it tomorrow. That is what we all agreed to do.

Now the assistant leader comes down and asks unanimous consent to go off the bill we voted to go on and to start voting tomorrow on some FISA amendments, some amendments to the FISA bill. He said: What a waste it would be.

Now, as everyone in this body knows, we did not vote last Wednesday, last Thursday, last Friday, not because Republican's were not ready to vote, there was no agreement on how to proceed to a FISA bill.

We have now reached that agreement. That agreement is in place. The minute we finish this stimulus package, we will move to the FISA bill. We can get that done within the next 10 days. There is no question about that. So I do not know why this constant attempt to try to put people on record, as the distinguished assistant leader said, and then to talk about 64 filibusters by Republicans.

The majority leader set a record last year in the number of cloture votes that were required in order for us to do business. When the majority leader brings up a bill and then precludes any other amendments and files cloture, we have no choice but to vote on that cloture motion. If we vote against it, it is called a filibuster. That is not a filibuster. But by the reckoning of the other side, I gather that is how they count up the number of filibusters.

Every time we vote against a cloture vote, the majority leader has required—and there is no opportunity for Republican amendments—many of those times Republicans are going to say: No, we want a chance to offer

some amendments. That is not a filibuster. Yet that is the kind of accusation that has been made here.

I want to get back to the point that surely we can have a constructive debate without constantly trying to cut each other off at the knees; that the Republican minority has taken this to an extreme, that they are not sensitive to the challenges the people face, that the Republican position is to do nothing tomorrow.

Well, we are all going to debate the stimulus package tomorrow because we all voted to debate the stimulus package tomorrow. That is not doing nothing.

I ask my colleagues again: Let's quit this business of trying to put the other side into an embarrassing position to object to something or complain that we want to do nothing or we do not care about people or that the President wants to violate the Constitution. This is the kind of thing the American people are sick of.

We voted to take up the stimulus package. Let's take it up. We will have time to read it. If it is as simple as the other side says, that is great. It is 71 pages long. But if it is pretty simple, then presumably the debate will not take all that long. Then we can turn to the FISA bill, on which we have reached an agreement.

I hope my colleagues, in moving forward, will consider the interests of the American people first and stop this bickering to try to put each other into embarrassing positions so we gain a little bit of a political advantage.

Mr. President, I am very happy now to join my colleague from New Jersey in a bipartisan exercise; that is, to congratulate the New York Giants on their victory.

I am happy to yield the floor to him at this time.

The PRESIDING OFFICER. The Senator from New Jersey.

(The remarks of Mr. LAUTENBERG are printed in today's RECORD under ''Morning Business.'')

Mr. LAUTENBERG. Thank you, Mr. President. 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. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WARRIOR CITIZENS CEREMONY

Mr. BROWN. Mr. President, yesterday I met American heroes—dozens and dozens of American heroes—citizen soldiers who had returned from service in Iraq. Out of Brooklyn, OH, High School near Cleveland, 81 soldiers in the 256th Combat Support Hospital were honored at the Warriors Citizen ceremony.

Many years ago—200 years or so ago—George Washington talked about farmers putting down their plows and serving their country. Yesterday I met nurses, teachers, doctors, farmers, and small business owners, all of whom had returned from Iraq last October, and all of whom we were honoring yesterday in Brooklyn, OH. MAJ Michael Evarts trained Iraqi soldiers. MAJ Michael Evarts, a citizen soldier, returned to Ohio; he works every day supporting his family as a pharmaceutical representative.

Bryan Block from Zanesville left his restaurant for a year to serve his country. He left Charlie's Subs to his son-in-law in Zanesville and last October returned to a growing, prosperous restaurant. Bryan Block is a citizen soldier.

LTC Shirley Koachway spoke with an infectious enthusiasm and with an obvious dedication to the veterans she serves. Not only is she in the Army Reserve, but she told me about her work in Sandusky—a city just west of Lorraine where I live—in a community-based outreach clinic serving veterans—a citizen soldier.

CPT Dionne Moore is an optometrist who works for the Department of Veterans' Affairs in a community-based outreach clinic in Lorraine, OH. Captain Moore told me with some pain in her eyes how she is seeing more and more diabetic veterans who have not gotten their medicine or not often enough kept up with taking their medicine, which is causing a decreased use of their vision and an increase in blindness in all too many veterans.

CWO Ron Kuntz, who directed the choir for the ceremony, spoke passionately not just about his service for our country but spoke passionately about his students whom he has as a music teacher in the Cleveland city schools—another citizen soldier.

I also spoke with COL Ron Dziedzicki, who was a nurse and is now a hospital administrator who has been working with these men and women, with these soldiers in Europe and in Asia and all over the world in his many years—more than two decades—of service to our Nation—all citizen soldiers.

Now, when I think of whom I met yesterday, when I think of these soldiers—men and women of all races, of all ages—when I think of these soldiers who give up their lives or time away—more than a year away from their families—one of these soldiers told me his child was born when he was overseas—when I think about them, I think about the duty we have to them.

I know the Presiding Officer has spoken about this many times. The President and this Congress, for too many years in the past, have simply not taken care of veterans the way we should take care of them. For the kind of service we have asked of them and sacrifice we have asked them to make for our country, we haven't—even in a small way in too many cases—paid them back.

That is why I come to the floor today just for a few more minutes to talk about the GI bill: the post-9/11 Veterans Educational Assistance Act of 2007. A whole generation of Americans in the 1940s and 1950s, a whole generation of soldiers and sailors and marines were educated because of the GI bill. They were people who came back without much money, enrolled in school, and the Government—paying them back for their service for winning World War II, for Korea, for all of their service to our country—the Government decided the most important thing to do was to give them the kind of educational opportunity that they earned and that they deserved.

Do we know what happened? It wasn't just that the GI bill helped thousands, tens of thousands, hundreds of thousands, a few million returning veterans, it is also what it did for the prosperity of our Nation because without the GI bill in the 1940s and 1950s and 1960s, we would not have had the educated workforce, we wouldn't have the kind of educated citizens this country, the ''greatest generation,'' gave to us.

That is why a government program such as this, a program that is all about opportunity to give these veterans the GI bill, give these veterans an opportunity, an education, will not only help them personally and help their families, it will help their neighborhoods, it will help their communities, and it will help us to make our country even more prosperous. That is the whole point of programs such as the GI bill. It should help those veterans whom I met yesterday, those returning soldiers, some of them still in the Reserve, some of them having served their time and left. But that GI bill will spark the kind of economic growth and expansion for a whole generation of Americans.

With programs such as this one, when we provide opportunities to college students, when we provide opportunities through Head Start, when we provide opportunities with helping families through the earned-income tax credit, not only does it help those individuals and help those families, it helps our communities, it helps our States, it helps our country.

That is the story of the GI bill. That is why we need a new GI bill that really does pay those veterans back, pay those soldiers, sailors, and marines back for the service they gave our country. It is the smart thing to do. It is the morally right thing to do. It is the best thing to do for our country.

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.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

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

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

NEW SOLUTIONS AND PRIORITIES

Ms. KLOBUCHAR. Mr. President, last month I traveled to dozens of communities throughout my State. I actually visited 47 counties in Minnesota in January, from towns on our southern border with Iowa to towns way up on our northern border with Canada. I saw a lot of great entrepreneurial activity out there. I got to see ethanol plants. I was with Senator CONRAD in North Dakota for his entrepreneurial forum. I got to jump on solar panels to show that hail doesn't hurt solar panels in Starbuck, MN.

What I heard from people throughout our State—and I think what we are hearing from people throughout America—is that Washington must provide a new direction to address the Nation's priorities and solve our economic challenges. They know what is happening. There has been a doubling of foreclosure rates in rural Minnesota. We have seen rising energy prices, as my colleagues can imagine when it is so cold. I was in International Falls, where it gets to be 10 below zero. In International Falls, it is pretty cold. In Embarrass, MN, it can get pretty cold.

There are also skyrocketing health costs. I heard about that not just from individual families and workers but from small businesses that are having trouble keeping their employees on health care plans or big businesses that are having trouble competing internationally because of the costs of health care.

What people told me out there is they need new solutions and new priorities from Washington.

What I want to talk about today is, first of all, the President's budget and how it doesn't give us new solutions, it doesn't give us new priorities, and then our own stimulus package that is so important to push through this Congress and not to be obstructed.

The President's budget continues a familiar pattern of misplaced priorities. It continues a 7-year pattern of fiscal irresponsibility, borrowing money and then leaving an ever-larger debt to our children. In just 7 years, this administration took a budget surplus of $158 billion and turned it into what will soon be a budget deficit of something like $300 billion, $400 billion. It is quite an accomplishment. Meanwhile, this new budget continues to neglect critical investments that are needed to strengthen our economy and our Nation in a very difficult time. It does not make the investments we need in our Nation's transportation infrastructure. It does not make the investments we need in developing renewable energy sources to move us toward greater independence and security. It does not make the investments we need to get new technology to solve our climate change problem—what I call building a bridge to the 21st century. It doesn't do that. It doesn't make the investment we need in the basic medical and scientific research that has always been a key driver of our country's innovation and growth. It doesn't include a shift in these priorities, and it also doesn't include how we are going to pay for it.

When I went around our State in January, people were willing to talk about reform. They are willing to talk about rolling back some of these Bush tax cuts on the wealthiest people—people making over $200,000, $250,000 a year—so we can actually pay for some of the investments we need in our State. People out in rural Minnesota said: Fine by me. Roll back those tax cuts on people making over $200,000 a year. That is not me. Meanwhile, I have a road that I can't even go on because it has so many potholes and that has a shoulder that is going downhill where four people were killed in the last few months. I am happy if you can put some money into infrastructure.

Here are a few examples in Minnesota of how the President got the budget wrong. I think people are well aware of our tragic bridge collapse. That was only six blocks from my house, when a bridge just fell down in the middle of a summer day in the middle of America. It was a tragic wake-up call that the Nation's bridges are deteriorating faster than we can repair or replace them. So what does the administration do in its budget? It reduces funding for the Federal highway construction fund.

Minnesota is home to premier medical institutions such as the Mayo Clinic and the University of Minnesota that conduct breakthrough research on lifesaving cures. Many of the researchers at these institutions depend on Federal funding. So what does this administration do in its budget? What was I going to tell the people in our State, when I met with them at the Mall of America, who are trying to find a cure for children's diabetes, for the parents who met with me as we see autism on the rise and we are trying to find a cure or the people on the Alzheimer's ward? What does the President say to them? Well, for the sixth year in a row, it freezes funding for the National Institutes of Health, the Nation's leading medical research agency that provides essential funding to doctors and scientists.

The budget also cuts health care services. For example, the administration is calling for an 86-percent cut in funding for rural health programs, including rural health outreach grants and the Rural Hospital Flexibility Grant Program.

I can tell my colleagues what I heard when I was up in Brickstown, MN. I was up there. They have a hospital. They have one surgeon—one surgeon. You have to go miles and miles and miles to find another hospital. You can see towns miles and miles away, it is so flat up there. But they have this one hospital that is so important to their area. The surgeon is reaching retirement age. He might even want to retire now, but he can't because they can't find another surgeon to go up there. If they don't find another surgeon, they are not going to be able to have babies born in that hospital because they don't have a doctor who can do a C-section.

Much of my State is rural despite the thriving metropolitan area we have in the Twin Cities and thriving places such as Moorhead and Rochester and Duluth, and we have these rural hospitals and health care providers that depend on this Federal funding to provide services for the rural residents of my State. It is not just a nicety; it is a necessity.

In Minnesota, we are on the leading edge of the renewable energy revolution that promises to transform our economy and lead us toward greater energy security and independence. So what does the administration do in this budget? It cuts funding for solar energy research, hydropower, and industrial energy efficiency. It also cuts Department of Agriculture programs that are important for developing new farm-based energy sources such as biomass and cellulosic ethanol.

Now, we heard the President at the State of the Union talking about moving to this new energy era. Well, put the money where the mouth is. It is not there. How are we going to stop spending $200,000 a minute on foreign oil if we are cutting the possibility of research into things such as cellulosic ethanol which, if done right with prairie grass, which puts carbon back into our soil, will allow the prairie grass to be grown on marginal farmland? This is the direction we need to go but not if we are going to cut funding. We have seen these wind turbines in our State where people are so excited they have wind turbines everywhere, wind turbine manufacturing, but every time the wind tax credit goes away, the investment stops about 8 months earlier because it is like a game of red light-green light: They don't know what is happening. So this is what the administration does.

This budget would shut down the U.S. Department of Agriculture's North Central Soil Conservation Research Lab in Morris, MN. That was one of the places I visited in January. This lab, on the University of Minnesota campus, is at the forefront of research and development to promote homegrown renewable energy. This is our energy future, but you would hardly know it from looking at the President's budget.

Finally, as I mentioned, it has been a little cold in Minnesota. It did get up to 10 degrees below zero one day, but it was down to 20 degrees below zero in Embarrass about a week ago. Nationwide, the average household is expected to pay 11 percent more for heating this winter compared to last year. Families who rely on home heating oil are facing record prices 30 to 50 percent above last winter.

What does the administration do in its budget? It cuts in half the emergency funding for the low-income heating assistance program. This is a program which enjoys bipartisan support.

It provides much needed help to seniors and families who are struggling with ever-rising heating costs. Maybe the President thinks we are going to have so much global warming that we don't need this heating, I don't know. While these prices are going up and you are in the middle of winter, you shouldn't cut the heating program. I hope the next President see things differently.

I believe deeply in the importance of fiscal responsibility. I support the pay-as-you-go rule for budgeting. My husband and I keep our financial house in order, and we think the Government should too. If you want to talk about fiscal responsibility, you don't have it in this budget. There is no willingness to talk about doing things differently. Do we want a budget that offers tax giveaways to the wealthy or one that provides relief to middle-class families who are squeezed by the rising costs of housing, energy, health care, and tuition? You know what happened on the AMT debate. We voted to pay for it by taking money away from the hedge fund operators, but the other side would not do it. Do we want to give lucrative favors to the rich and the corporations, or do we want to invest in our future prosperity, in things such as research and development and renewable energy?

Instead of investing in the oil cartels in the Mideast, we need to invest in the farmers and workers of the Midwest—maybe a few in Vermont, as well, Mr. President. Do we want a budget that continues to send tens of billions of dollars to Iraq—I think it is $12 billion a month—or do we want a budget that provides our local and State law enforcement with the resources they need to protect public safety here at home?

I want to see an administration that aims for fiscal responsibility by rolling back the tax cuts for the wealthiest people making over $200,000 or $250,000 a year.

I would like to see an administration that aims for fiscal responsibility by eliminating offshore tax havens for multimillionaires.

I would like to see an administration that aims for fiscal responsibility by ending the tax breaks and royalties that have been handed out year after year to the big oil companies.

I would like to see an administration that aims for fiscal responsibility by allowing Medicare to negotiate lower prescription drug prices for seniors. Exactly what we predicted would happen has; you are seeing the prices go up, not down. They just had a re-up period for Medicare Part D. Seniors in my State are trying to figure out all these call-in lines and are trying to save a little money, and they are caught in the doughnut hole. This could have been done better. It wasn't done in a fiscally responsible way.

The President's budget doesn't provide the new priorities and new solutions America needs. Instead, it continues to take us down the wrong path for the future.

Even as we must plan and invest for the long term, I am also concerned that we have our priorities right in the short term. At this time, the urgent priority for America is to get our economy moving forward again and not let it weaken further. That is why we have put together an economic stimulus package that would respond promptly and responsibly. It would get this economy moving with tax rebates that are fair to the middle class, carefully targeted, and fiscally responsible. But tonight we find out that we are not going to be able to vote on that tomorrow.

I do commend Senator BAUCUS and Senator GRASSLEY for their swift work in getting this comprehensive, simple, and effective measure to the floor.

A short-term stimulus package needs to be targeted for the people who need it most. Although economists are wary to declare that we are officially in a recession, many middle-class American families have been feeling the effects of an economic slowdown for months. From the impact of the mortgage crisis on the value of homes in their neighborhoods, to the skyrocketing costs of the oil that fuels their cars and heats their homes, to the rising prices in the grocery store, the middle class is feeling economic pressure from each and every side.

When I went across my State on our Main Street tour in January, no matter where I went—all 47 counties—the economy was the first on the list of what the people in my State wanted to talk about. From city hall, to the cafe stops, to the turkey-processing places, to the little solar panel company, that is all they wanted to talk about—the economy. The message was loud and clear. I heard a lot from the middle-class families. Even before we began to experience this economic slowdown, the families were finding it harder to get by.

To give you a sense of what we have in our State, in Minnesota, the unemployment rate recently jumped to 4.9 percent, up from 4.4 percent the month before. Our State lost 23,000 jobs in the last 6 months alone. Over 50,000 Minnesota families lost their homes to foreclosure in the past 3 months. Home heating prices for Minnesota families have risen by 14.1 percent per household in the past year alone.

In order to get communities along Main Streets in Minnesota and across our country booming again, we need both short- and long-term solutions. While everybody agrees the rebate checks will be a part of whatever targeted and effective stimulus package Congress ends up sending to the President, I am here today to voice my strong support for several additional provisions that are in our Senate proposal. These proposals would do much to help improve the middle-class lives behind those statistics I just talked about. These are real people all over our State. These proposals are a proven stimulus for our economy. They deserve a full debate and proper consideration in our Chamber.

First, we need to expand our rebate effort in order to ensure that certain deserving groups are not left out. As I said, part of creating a targeted stimulus for the economy is through helping those who need it most. I was sorry to see that the House proposal fell short.

It is crucial to this package that the 20 million American seniors who worked all their lives, paid taxes, and contributed to our society in countless ways will get rebate checks. That is the first point. We need to include the seniors.

In the past week, I have heard from hundreds of Minnesota seniors who told me that the Senate proposal to include Social Security recipients is the only fair way to stimulate the economy. I agree, and I support the Senate effort to include seniors.

It is also crucial that we include disabled veterans in this package. These men and women have served our country both here and abroad. They signed up to serve; there wasn't a waiting line. When they come up and people are getting rebates, there should not be a waiting line. Go to the end of the line—you disabled veterans, who served our country, are at the end of the line; you don't get a rebate check. That is not right.

Second, I firmly believe we should include an extension of the clean energy tax incentives in any stimulus package. We can do that in another package, but we have to do it. These benefits certainly meet the definition of what we need for a short-term stimulus package.

If you look at the data, we have seen a revolution going on across the country in wind and solar and other forms of renewable energy. This has been like a game of red light-green light. You can go through the lights, and then it lapses for 6 months. It goes on again, and then it lapses. The proven statistic is that every time it lapses, the investors stop investing. That is not what we want. Our country came up with all of the technology for wind and solar, and now we are falling behind the rest of the world in developing it because we don't have the investment tax credits in place.

Third, I believe the stimulus package should also include additional funding for LIHEAP. Working families in Minnesota and across the Nation should not have to choose between paying home heating bills and putting food on the table. Increasing LIHEAP funding to keep pace with the skyrocketing price of oil is essential to this stimulus package.

I see the stimulus package as a first step, and it is crucial to support it. But long after those rebate checks are spent, we are going to need a long-term economic strategy in response to the problem or we are going to be back where we started in the first place. We need an economy that creates good, stable middle-class jobs. We need infrastructure investment so we don't have

bridges falling down in the middle of America. We need energy investment. That will reduce our dependence on foreign oil and create good jobs in the green-collar energy sector.

In the Senate, we have our stimulus package, and it is a good one. The people we serve are asking for a new direction and priority. That means being fiscally responsible, being willing to roll back some of the tax cuts for the wealthiest, closing down loopholes, negotiating for lower prescription drug prices, and taking the oil giveaways and putting them into renewables. Those are new priorities for this country.

Last year, we made a downpayment on change in this country. We moved toward a more responsible budget process. We gave working Americans an increase in the minimum wage. Today, we can continue that progress and continue that change with a system that is fair for all Americans. That means getting the stimulus package done, including these necessary changes with seniors and disabled veterans and the LIHEAP funding, and then looking at the long term and making sure in this package—or in another one—we get the tax cuts in place for clean energy and do something about fiscal responsibility. And we are willing to talk about change and really do it.

This is our moment. The American people have spoken. At least they spoke to me in Crookston and Worthington and Starbuck. I think if the people who live in those towns were standing here, they would tell the Senate what we need to do. So let's get it done.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

THE ECONOMY

Mr. SANDERS. Madam President, during the last several weeks and months, in fact, there has been increased discussion and comments about the state of our economy. As you know, last month our Nation actually shed some 17,000 jobs and many economists tell us we are now in a recession and that is certainly true for some parts of this country.

The House, the Senate, and the White House are wrestling with an economic stimulus package, and President Bush has presented his new budget. This week, the Director of the OMB and the Secretary of the Treasury will come before the Senate Budget Committee to discuss their views on the economy.

Let me begin by stating how dismayed I was by the budget President Bush has provided us today. Frankly, this budget is unconscionable and reflects priorities that are almost impossible to comprehend. While providing hundreds of billions of dollars in tax breaks for the wealthiest three-tenths of 1 percent of our population over the next decade, this President has proposed major cuts in health care, LIHEAP, weatherization, nutrition, housing programs, and other basic needs for moderate- and low-income people. This is a Robin Hood in reverse budget. This is a budget that takes from the poor and working families, those most in need, and gives to millionaires and billionaires, those least in need.

This proposed budget tells us how out of touch this President and his administration are with the needs of the American people.

Let me be very clear; as a Member of the Senate Budget Committee, I will do everything I can to make sure Bush's budget is rejected and that we bring forth a new budget that reflects the priorities of all our people and not just the wealthiest and most powerful.

Most Americans understand, for example, our health care system is disintegrating. Since George W. Bush has been President, 8.6 million Americans have lost their health insurance, and we now live in a country in which 47 million of our neighbors have no health insurance. We live at a time when health costs are soaring, when people are paying larger and larger deductibles and copayments. That is the reality of American health care today.

How does President Bush respond to this crisis in health care? His response is to slash funding for Medicare, slash funding for Medicaid, slash funding for rural health care programs, making a terrible situation even worse.

I understand it will be asking too much for this President to stand up to the insurance companies, to stand up to the drug companies and move us toward a national health care program which guarantees health care for all our people, something, by the way, which every other major country on Earth now has.

I understand that is something George W. Bush is not going to do. I understand that. But at the very least, at a time when some 17,000 Americans a year die because they lack health insurance, he should not be making a terrible situation even worse. He need not deny health care to even more Americans.

In the State of Vermont and through many parts of our country, Minnesota included, we have experienced extremely cold weather this winter. At the same time, as every American knows, the price of home heating oil has more than doubled, skyrocketed since President Bush has been in office. The result is the LIHEAP program, the Low-Income Home Energy Assistance Program, which keeps millions of seniors and low-income households warm in the winter, is stretched to the breaking point. That is the reality. Cold winter, price of home heating oil soaring, the program is stretched.

In State after State, because of soaring fuel prices, either fewer people are able to access LIHEAP or the amount of help they are getting has been significantly reduced. That is simply the arithmetic of the situation: lower payments, fewer people. Those are the choices States have with reduced LIHEAP budgets.

I know President Bush has no problem, no problem whatsoever, with the fact that his good pals at ExxonMobil have announced the largest profits in the history of the world for the third consecutive year, over $40 billion in profits in the year 2007. I am quite sure the President has no problem with that, and I understand that. He has no problem, apparently, with the fact that home heating oil prices are now at $3.30 a gallon. I am sure he has no problems with the fact that a few years ago, the former CEO of ExxonMobil, a gentleman named Lee Raymond, received a $400 million retirement package from that company. It is not a problem for the President of the United States. He is close to those people. As he once famously said: That is his base.

But despite the President's lack of concern about rising fuel costs, it is beyond comprehension that he would slash the LIHEAP program by $570 million, a 22-percent reduction from last year. The price of home heating oil is soaring, more and more people are losing their LIHEAP benefits, and the President's response in the midst of this crisis is to slash the program. That is pretty cruel. What is a low-income senior living on Social Security supposed to do when the weather gets below zero and she cannot heat her home? That is the story today, and you propose to make it even worse next year.

At a time when millions of low-income seniors are struggling to survive on inadequate Social Security benefits, this President in his budget wants to cut back on nutrition programs for low-income seniors, in addition to cutting back on low-income housing and senior citizen housing.

Hunger in the United States of America is increasing. Emergency food shelves are simply running out of groceries. There is no moral justification for the President of the United States to be cutting back on nutrition programs for low-income elderly Americans by proposing to completely eliminate the Commodity Supplemental Food Program which is providing assistance to well over 4,000 low-income senior citizens in the State of Vermont and hundreds of thousands nationally. With hunger going up, the President cuts back on an important nutritional program for low-income seniors.

I am a member of the Veterans' Committee, and I am proud that last year, against opposition from the White House, we substantially increased funding for the VA and are providing billions more so veterans can gain access

to quality VA hospitals and clinics. That is what we accomplished. That was the right thing to do. And yet despite all of his rhetoric about how much he loves the troops and how much he respects the troops—last week, I might add, in his State of the Union Address, President Bush said:

We must keep faith with all who have risked life and limb so that we might live in freedom and peace.

That was the President's statement 1 week ago at the State of the Union Address. But today, after all that flowery rhetoric, the President has proposed in his budget a very sharp increase in health care fees from $250 to $750 for veterans who access VA health care facilities. And there is no question, no doubt about it but that these increased fees, if put into effect, would result in driving many veterans out of VA health care which, in fact, is precisely the goal of that proposal. He wants to take veterans out of VA health care, which is consistent with what the President did several years ago when he threw large numbers of so-called category 8 veterans, those without service-connected disabilities, out of VA health care.

The words tell us how much he loves our soldiers, but actions tell us he is prepared to raise fees for veterans health care, with the result of removing many veterans from the VA system.

I say to President Bush that at a time when tens of thousands of our soldiers have been wounded in Iraq and Afghanistan, please don't balance your budget on the backs of men and women who have put their lives on the line defending this country.

Since George W. Bush has been in office, we have seen recordbreaking deficits, and our national debt is now $9.2 trillion, $3 trillion more than when President Bush assumed office.

All of us in Congress want to move this country toward a balanced budget to make sure our kids and our grandchildren are not left with an enormous debt. But there are right ways to move toward a balanced budget and there are wrong ways to try to do that and, unfortunately, President Bush's budget moves us exactly in the wrong direction.

As many Americans know, since President Bush has been in the White House, the middle class has been decimated, poverty has increased, and the gap between the very wealthiest people in our society and everyone else has grown wider. In fact, the United States now has by far the most unequal distribution of wealth and income of any major country on Earth.

Sadly, the gap between the upper-income people, the wealthiest people in our country, and the middle class is increasingly making our country look like a poor developing country. We have the same economic structure, in terms of distribution of wealth and income, that countries such as Brazil and Mexico have, rather than looking like other major industrialized countries in Europe, Scandinavia or in Canada.

I am aware a lot of facts and figures are thrown about on the floor of the Senate, but let me mention one fact I hope all Americans pay attention to, and that is that according to the latest statistics available, the wealthiest 300,000 Americans—that is men, women, and children—take in more income than the bottom 150 million Americans. In other words, the upper one-tenth of 1 percent, 300,000 people, take in more money than do the bottom 50 percent. One-tenth of 1 percent. Fifty percent. And that is what is going on in the American economy today.

Tragically, that gap between the superrich and everybody else is growing wider and wider every single year. For those people who live in the bottom 90 percent of the population, the vast majority of our citizens, their average income was $33,000 way back in 1973. Today, despite all of the free trade agreements and globalization, despite all of the huge increases in technology, despite the significant growth in worker productivity, in inflation-accounted-for dollars, that $33,000 per year has declined to $29,000 a year, which is about a $75-a-week pay cut.

That is what is going on in the economy today, and has been going on over the last three decades: people on top, doing phenomenally well; people at the bottom, the situation is getting worse; people in the middle are getting squeezed, working longer hours for lower wages. And perhaps those trends tell us why in today's Washington Post a front-page story was headlined ''U.S. Concern Over Economy Is Highest In Year.'' That was the headline on the front page of the Washington Post today. The first line of that story tells us that ''The public views the national economy now more negatively than at any point in nearly 15 years.''

What is going on is that the American people are getting sick and tired—they are getting sick and tired—of paying $3.15 for a gallon of gas when ExxonMobil enjoys the highest profits in the history of the world. They are tired of paying outrageously high home heating costs. They are tired of losing their health insurance. They are tired of losing their pensions. They are tired of not being able to find affordable childcare for their kids. They are tired of seeing their kids come out of college $20,000 or $30,000 in debt and not able to find decent-paying jobs.

And not only are they tired, they are worried. They are worried that for the first time in the modern history of this great country—despite the fact that so many people are working so hard, they are worried that their kids will have a lower standard of living than they do. They are worried that the American dream, which is what this country has always been about—the dream which says that if parents work hard, their kids will do better than they do—they are worried that dream is being lost.

That is why there is so much deep concern about the economy. It is not just health care, it is not just the loss of pensions, it is not only outrageously high prices when you fill up your car, and it is not only home heating oil; it is the fact that when you go shopping, what you are doing is buying products made in China and Mexico that used to be made in the United States. Many American people understand that we are never going to have a great economy if we are not producing the products we need and the people throughout the world need.

The American people understand that there is something profoundly wrong when 20, 25 years ago the largest employer in the United States was General Motors—manufacturer of cars—that paid workers good wages, good benefits, and there was a strong union, and today the largest employer in the United States is Wal-Mart, with low wages, minimal benefits, and vehemently antiunion.

The American people are getting the point that people such as President Bush work tirelessly on behalf of the wealthy and the powerful. But who is standing up for the people who make our country go every day—for the cops and the firemen and the farmers and the people who work in factories and the nurses and the doctors? Who is standing up for those people? Maybe the time is now for us to begin standing up for those people.

In the midst of all of this, the President has brought forth a budget that punishes working people, punishes poor people, but says to the wealthiest people in this country, the people who have now had it so good since the late 1920s, and says to them: Hey, I—the President—am going to help you. In his budget the President wants to repeal the estate tax, which would provide $1 trillion in tax relief to the wealthiest three-tenths of 1 percent. Let me say that again. Over a 20-year period, $1 trillion in tax relief to the wealthiest three-tenths of 1 percent of our population.

That is what this budget, this Robin-Hood-in-reverse budget, is all about. If you are old and trying to survive on Social Security, and if you are going to go cold this winter and next winter, the President wants to cut back on the heating assistance you receive. If you are a low-income American, or perhaps an American without any health insurance right now, the President wants to cut back on Medicaid and Medicare. If you are an American who lives in a home that lacks insulation, and if you are putting money into your heating bill and that heat is going out your poorly insulated home, it is going out the window, going out the roof, you have a President who wants to completely eliminate the low-income weather assistance program. If you are a veteran who has put your life on the line defending this country, the President wants to make it harder for you to access VA health care by substantially increasing your fees. But if you

are a billionaire, the President is all there for you. If you are one of the wealthiest families in America, in this budget the President has brought forth today, you are going to get huge tax breaks. Let me cite one example of how preposterous this scenario is.

One of the wealthiest families in America is the Walton family. The Walton family, as I think most people know, owns Wal-Mart. This one family is worth, it is estimated, a combined $82 billion. There are a number of sons and daughters, but combined they are worth about $82 billion—one family. Incredible as it may sound, under the President's proposal of completely eliminating the estate tax, that one family would receive over $30 billion in tax breaks.

So here we are. If you are old and can't afford to heat your home, we are going to cut the program that keeps you warm. If you are sick and you have no health insurance, we are going to cut the program that gives you access to a doctor. If you are living in a home where you are losing all kinds of heat through poor insulation, we are not going to help you. If you are a veteran who has served your country, we are going to raise fees for you to get into a VA hospital or a clinic. But if you are one of the wealthiest families in America, we are going to give you $30 billion in tax breaks.

I say this without glee, but President Bush will probably go down in history as one of the least popular Presidents this country has ever had. And you don't need to know anything more to understand why that is so. A President who would give hundreds of billions in tax breaks to millionaires and billionaires and then cut back on the needs of working families, senior citizens, and veterans is not a President who is representing the vast majority of our people. I will do everything that I can as a member of the Budget Committee to not only make sure President Bush's budget is not implemented, but I will work with my colleagues to fashion a budget that begins to address the real needs of the American people.

There is great disenchantment in this country about what is going on here in Washington, but I also note there is great hope out there. There is a belief that if we come together as a people, if we remember where we came from, if we are prepared to uphold the values that have made us a great country, if we are willing to stand up to the powerful special interests who have so much influence over what goes on in this institution—if we can do those things—not only can we once again create a great middle class, not only can we once again protect the most vulnerable people in our society, but perhaps, more importantly, we can once again give the American people a faith in their Government that they presently lack. That is something we must do.

Madam President, I yield the floor.

Mr. AKAKA. Madam President, I am pleased to support the Senate's bipartisan legislation designed to stimulate the economy and benefit working families, assist seniors and veterans, provide some relief for the unemployed, and encourage business and energy investments. I know that there are numerous families throughout the Nation who have found themselves working harder and having less discretionary income due to increases in living expenses such as gasoline and food costs. In my home state of Hawaii where the cost of living is already high, especially due to housing, families are struggling. they, like the rest of the Nation, have been hit hard by the decline in the economy. While Hawaii's unemployment is not as high as in other parts of the Nation. it is not uncommon for individuals in Hawaii to work two or three jobs just to provide their families with food and shelter and to have multiple generations living under the same roof in order to save money.

One of the key provisions of the Senate's economic stimulus package is to put money in the hands of low-income and middle-class individuals and families by offering a rebate of $500 per individual and $1000 per couple, plus $300 for every child under the age of 17. For the many families in this Nation struggling to make ends meet, these rebates will help ease the financial pressures they are currently facing. Far too often, due to the downturn in our Nation's economy, families are finding that they simply cannot afford important, basic needs. Consequently, they are forced to make very difficult decisions and even more difficult sacrifices. More and more Americans are relying on high-interest credit cards, not to buy luxuries but just to provide daily necessities. The rebates included in the Senate package will help families pay down those bills and provide much needed financial relief.

The Senate Finance Committee's package also improves upon the House-passed bill by extending these rebates to senior citizens and disabled veterans. As chairman of the Senate Committee on Veterans Affairs, I am strongly supportive of provisions in this bill that improve the House version of the bill by including hundreds of thousands of disabled vets in the stimulus package. It is vitally important that we ensure that our Nation's wounded warriors and their families who have sacrificed so much are given the assistance they need. I am pleased to support the extension of benefits in the Senate Finance bill to 20 million senior citizens living on Social Security. For many low-income senior citizens, whose sole income is their monthly Social Security check, a rebate check could provide much needed relief in addition to providing further stimulus to the country's economy.

In addition to the rebates included in the Finance Committee package, another important provision is the extension of unemployment benefits. I know that for many workers who have found themselves out of jobs due to layoffs or business failures, unemployment benefits provide a much-needed bridge to get them over the immediate economic financial crises until they can find employment. Providing an additional 13 weeks of unemployment benefits for individuals who have been caught in the economic downturn and another 13 weeks of benefits for workers in states with high rates of unemployment will go a long way toward providing the support they need as they look for new jobs in this difficult economic environment.

I am also supportive of provisions in the Senate economic stimulus package that will encourage businesses to invest. Increasing the carryback period for net operating losses from 2 to 5 years, for example, will benefit the housing industry by allowing builders to avoid selling land and houses at greatly reduced prices and enable less costly financing. In addition, provisions to extend renewable energy and energy efficiency tax cuts for a year will help boost the economy by generating new employment opportunities. Given the growing demand for energy coupled with rising prices, it is critical to America's economy that we provide incentives to invest in clean energy production.

As the Senate considers this bill, I will continue to work to ensure that the economic stimulus package passed by Congress is structured to help hard-working men and women who find it increasingly difficult to make ends meet. We must see that a broad segment of the population, including the unemployed, senior citizens, and disabled veterans, receives assistance and that business and environmental investment is encouraged. I ask my Senate colleagues to join me in supporting the Senate version of the economic stimulus package.

MORNING BUSINESS

Mr. SANDERS. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO AMBASSADOR JAMES W. SPAIN

Mr. LEAHY. Madam President, I remember being on the Senate floor on September 12, 2001. That was the day after the horrendous attack on our Nation. It was the only time in my 33 years here that I can remember the public galleries being closed. There was an unprecedented amount of security around the Capitol. But every Senator came onto the floor of the Senate that day. We wanted to indicate to the world that this symbol of democracy would not close. I especially remember

that the closed visitors galleries, however, contained two people: former Ambassador James Spain and my wife Marcelle.

This memory, and so many more, came back to me in January of this year when Ambassador Spain's son Stephen informed me that my dear friend Jim had died on January 2 in Wilmington, NC.

It is hard to think of anyone in public life I have met during my years as a Senator who is as memorable as Jim Spain. He has touched me with his dignity, his sense of humanity, and his honesty as no one else could. He was the truest of public servants—one who cared for his country and those his position influenced actually more than he cared for himself.

I first met Jim decades ago when he was the Ambassador to Turkey and I visited him in Ankara. Even though Turkey was under military rule at that time, he invited people from across the political spectrum to meet with the two of us at his residence. It was there I saw the abilities of one of the finest Ambassadors to ever represent our great country as he brought these sometimes adversaries together to talk in what he called his ''game room'' or play room.

Turkey was under a dusk-to-dawn curfew at that time, but I had to leave in the middle of the night to get back to the United States. Jim arranged for a military escort to take me and to open the airport so that my military plane I was using could leave. I still remember ''His Excellency,'' as so many of the Turks called him, waving goodbye from his front door in his pajamas, his bathrobe, and his slippers about 2 a.m.

We kept in close touch when he returned to Washington, through his ambassadorship in Sri Lanka and later retirement. He and Marcelle and I once sat up talking half the night when he was a guest in our house. After every one of these meetings, I would tell others that I felt I had been with a close member of my own family and my conscience had been touched in a very special and very helpful way.

I wish every member of the Foreign Service could read Ambassador Spain's book entitled ''In Those Days.'' I was privileged to write, along with John Kenneth Galbraith and Father Andrew Greeley, a cover blurb for that book. In my blurb I said:

From boyhood glimpses of a strutting Al Capone, to post-war Japan, a stint with the CIA, and a fascinating foreign service career—this is a life worth living. History is shaped by extraordinary people like Ambassador Spain. His Irish eloquence makes the difficult look easy while his humanity touches your soul.

Another wrote:

Jim Spain's contribution in assisting CIA Director Allen Dulles to make President Eisenhower get the pronunciation of Prime Minister Nehru's first name right during the latter's official visit to Washington is a typical foreign service moment. ''Heady stuff for a 28-year-old,'' noted Jim Spain.

Even today I cannot pronounce former Prime Minister Nehru's first name correctly. I cannot think of the number of times when traveling with Ambassador Spain he whispered in my ear to make sure I got the names correct.

In the end, it was his humanity that touched us all. It was as though his great intelligence and ability was only the pedestal to allow the humanity to shine through.

Tissa Jayatilaka—and I do wish Ambassador Spain was here to make sure I come anywhere close to pronouncing this name correctly—wrote:

News reached us over the weekend past that Jim Spain's time on earth had run out. Heaven knows this world of ours cannot afford to do without human beings of his caliber and yet there is only so much that an individual can do for humanity before he, too, moves unto the dusty descend.

Ambassador Spain was one of the most decent, gentle, caring, and perceptive human beings I have known to-date.

He was unfailingly generous and kind to his fellow-companions on this bittersweet journey on earth that we travel on for a while. It was indeed a privilege to have worked with him briefly and shared a long and fruitful friendship with him thereafter.

I first came to know him during my days in The Colombo Plan Bureau in the 1980s. He had arrived in Colombo some time in 1985 to head the U.S. Mission here. Until then, Sri Lanka was the only South Asian country he had not lived in before.

He was to make up for this in the years ahead, when in 1989, consequent to his retirement from the U.S. foreign service, he made Sri Lanka his home.

This decision of Ambassador Spain was all the more remarkable because the last several years of the 80s was a period when most Sri Lankans were seeking to run away from their land of birth.

Jim Spain not only stayed behind, but also did a great deal discreetly to assist this beleaguered country of ours to save itself from self-destruction.

This person goes on to write:

. . . It was several years later that I came to know that only a couple of years prior to his coming to Colombo that Ambassador Spain himself had suffered a monumental personal loss.

Consequent to a memorable family reunion after some years during Thanksgiving 1983 at a resort in West Virginia, Jim Spain, his wife Edith and daughter Sikandra bade farewell to their sons and brothers Patrick, William and Stephen and began to wend their way through country roads back to Washington.

Near Leesburg, Virginia, their light fiberglass car was hit by a huge old station wagon going 85 miles per hour, driven by a local football player who was not wearing the glasses his license prescribed. He was not even scratched, but the Spains had to be evacuated to the Washington Hospital Trauma Center by helicopter.

By next morning, Sikandra was dead, Edith was clinging to life in an intensive-care unit and Jim was immobilized with a variety of fractures and bruises.

A few weeks later, Edith died.

With the help of his sons and his strong spirituality, Jim Spain bore his irreparable loss with fortitude.

I read all that into the RECORD so my colleagues would know what a man he was.

I have lost a good friend. Marcelle and I send our condolences to his sons Patrick, Stephen, and William; their wives, Barbara, Beth, and Anu; to his grandchildren Jeanne, James, Aidan, Katherine, and Rachel; and to all within his family.

For my part, I know I have gained more from knowing him than I could ever say.

I ask unanimous consent to have printed in the RECORD Ambassador Spain's biography.

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

Ambassador Spain was born in 1926 in Chicago, Illinois, where he attended St. Brendan's Parochial School and Quigley Seminary where his classmates included priest/author Andrew Greeley and ''Vatican Banker'' Paul Marcinkus. He received a masters degree from the University of Chicago and a PhD from Columbia University.

Ambassador Spain served in World War II, for a time serving on General Douglas MacArthur's staff as a photographer in occupied Japan. He entered the Foreign Service in 1951, and spent the entirety of his career in government service. His assignments took him to Pakistan, Turkey, Tanzania, the UN, and Sri Lanka.

His first post was as Vice Consul in Karachi in 1951. Following that he returned to the U.S. where he lived, mostly in Washington, DC, until 1969. He was appointed as Charge d'Affaires to Pakistan in 1969, Consul General in Istanbul from 1970–1972, Deputy Chief of Mission in Ankara (1972–1974), Ambassador to Tanzania (1975–1979) and Deputy Ambassador to the United Nations under Andrew Young briefly in 1979, Ambassador to Turkey from 1980–1981, and finally as Ambassador to Sri Lanka from 1985–1988. He retired as a Career Minister in the Foreign Service and remained in Sri Lanka until 2006, when he returned to the United States. He has been living in Wilmington, NC since then.

He was the author of numerous books, including In Those Days, American Diplomacy in Turkey, The Way of the Pathans, Pathans of the Latter Day, and a series of novels featuring Dodo Dillon. He contributed articles on foreign affairs to a variety of publications.

Ambassador Spain lived a distinguished life of service to his country and dedication to his friends and family. He was a remarkably able diplomat who drew on his own odyssey from an impoverished youth on the South Side of Chicago—the son of a streetcar conductor and a seamstress who were Irish immigrants—to attending receptions with Presidents and Prime Ministers to inspire those around him to seek the best for themselves and their country. He met adversity with strength, rudeness with grace, and challenges with enthusiasm. He played pivotal roles in maintaining and strengthening the United States alliance with Turkey, in bringing about a peaceful transition to majority rule in Zimbabwe, and strengthening the United States' relations with all the countries of the subcontinent. He was most proud not of the headlines that he had a part in, but of the headlines that never had to be written, thanks to his work defusing tensions between nations.

One of his earliest memories of Chicago was being taken by his father to watch Al Capone walk through City Hall. His glimpse of the legendary gangster impressed many, among them Jawarlahal Nehru, the first prime minister of India, who once held up a reception line just to hear about it.

James W. Spain, 81, died on January 2, 2008 of natural causes in Wilmington, NC.

He was very pleased to have outlived Sen. Jesse Helms of North Carolina, but sorely

disappointed not to have lived to see the next Democrat in the White House.

He was preceded in death by his beloved wife Edith and daughter Sikandra. He is survived by his sons, Patrick, Stephen and William and his grandchildren, Jeanne, James, Aidan, Katherine, and Rachel.

GUN VIOLENCE

Mr. DURBIN. Madam President, the flags are at half-mast today in the village of Tinley Park, IL.

They will be lowered for 5 days, 1 day for each victim of the tragic and senseless shootings that took place last Saturday.

Five lives were cut short that morning: Carrie Chiuso, of Frankfort, IL, a social worker and counselor of high school students at Homewood-Flossmoor High School, dedicated to her community and to her family; Rhoda McFarland, of Joliet, who had served as a nurse practitioner in the U.S. Air Force and who was engaged to be married; Jennifer Bishop of South Bend, IN, a nurse who had worked for 13 years saving lives at South Bend Memorial Hospital; Connie Woolfolk, of Flossmor, IL, a working mother, with a 16-year-old and a 10-year-old; And Sarah Szafranski, of Oak Forest, only 22 years old, a young woman who had just recently graduated from Northern Illinois University and started on a promising career.

We offer our support and our prayers to the friends and families of these victims. We mourn with them in their time of loss.

There are also reports that a sixth victim was shot in this robbery attempt and that she has survived. Our thoughts and prayers are with her and her family as well.

An investigation by law enforcement authorities is underway, and we hope that the person or persons responsible for these killings will be swiftly brought to justice.

Edward Zabrocki, the mayor of Tinley Park, said, ''This is a tragedy that should not happen to any town.'' He is right.

After a gun-related tragedy, we often hear that now is not the time to talk about gun violence in America. But when is it time?

In America, we lose 81 people to gun violence every day—81 people a day, 7 days a week, 365 days a year.

In 2004, the latest year for which the Centers for Disease Control has complete information, 29,569 people died from gun violence in America. That is more than twice as many people who died that year from HIV/AIDS.

And that doesn't count those who are wounded by gunfire. In 2004, 64,389 people were injured by gun violence. That is an average of 176 people every single day.

Firearm violence is at epidemic levels in this country. No matter who we are or how safe we think we are, any of us could be among the dozens of victims each day who end up on the wrong side of a gun.

We need to change the way we talk about gun violence in this country. It is time to move past the stereotypes of ''gun nuts'' and ''gun grabbers'' pitted against each other. The majority of those who own guns in this country obtained their guns legally and use them lawfully.

But we also need to recognize that every year tens of thousands of shots in this country are fired at human beings. And while some are fired lawfully in self-defense or in the line of duty, thousands of gunshots end with suicide, homicide, assault, or accidental death.

We need to reduce these violent shootings, without placing undue burdens on the legal uses of guns.

Here are some principles that should guide us:

No. 1, those who own guns have an obligation to store those guns safely.

No. 2, those who sell guns have a duty to sell them only to those who are authorized by law to purchase them. Whether you are selling at a store or a gun show, you should not turn your head the other way and ignore a buyer's background.

No. 3, those of us who make laws have a duty to balance the rights of people to own and use guns safely and legally with the need to prevent gun violence.

We have had too many funerals for Americans like Carrie Chiuso, Rhoda McFarland, Jennifer Bishop, Connie Woolfolk, and Sarah Szafranski. Too many American lives suddenly and brutally cut short. Gun violence is an epidemic in this country, and each of us needs to take seriously our responsibility to end this violence.

VOTE EXPLANATION

Mr. DORGAN. Madam President, I was on the floor during the debate and vote on cloture on the motion to proceed to H.R. 5140. My vote was not recorded. I would like the RECORD to reflect that, had my vote been recorded, I would have voted ''aye.''

HONORING OUR ARMED FORCES

STAFF SERGEANT ROBERT J. MILLER

Mr. GRASSLEY. Mr. President, today I give tribute to an American hero who was killed in the line of duty while conducting combat operations for Operation Enduring Freedom in Barikowt, Afghanistan. SSG Robert J. Miller was wounded by small arms fire and died from these injuries sustained on January 25, 2008. His bravery and selflessness will be remembered and honored. I extend my thoughts and prayers to his parents, Philip and Maureen Miller, and all his family and friends.

Robert Miller was born in Harrisburg, PA, and eventually found his way to the University of Iowa, where he attended his freshman year. Miller was an avid gymnast who aspired to be on the university's gymnastics team and was an enthusiastic fan of the Hawkeyes. After a year of attending the University of Iowa, he decided to enlist in the U.S. Army in 2003. He earned a green beret from the special forces qualification course in 2005. During his years of service, he has been awarded numerous medals including the Army Commendation Medal with Valor, Army Good Conduct Medal, and Global War on Terrorism Service Medal, among others.

Staff Sergeant Miller was assigned to Company A of the 3rd Battalion, 3rd Special Forces Group out of Fort Bragg, NC. He will be remembered for his courageous sacrifice and excellent work ethic. His mother Maureen said it best: ''We're proud of what he did, and we loved what we did. He died a hero.'' I ask my colleagues here in the Senate and all Americans to remember with gratitude and appreciation a brave soldier, SSG Robert J. Miller.

SOCIAL SECURITY COLA PROTECTION ACT

Mr. JOHNSON. Madam President, shortly before our adjournment last December, I was joined by several of my Senate colleagues in introducing the Social Security COLA Protection Act of 2007. This legislation will provide seniors with much-needed relief from steadily increasing Medicare premiums and will ensure that their Social Security cost-of-living adjustment, or COLA, is available for other essential needs such as food, housing, and energy.

I want to first thank Senators BOXER, INOUYE, LEAHY, MIKULSKI, MURRAY, REED, ROCKEFELLER, and SALAZAR for joining me in this effort. Representative HERSETH SANDLIN introduced the companion bill today in the House of Representatives, and I want to thank her for her leadership on this issue and other important topics to seniors in South Dakota.

Sixteen percent of South Dakotans are Medicare beneficiaries. When compared to a national average of 14 percent, it is clear that Medicare policies significantly affect my home State. Many of these retirees live on modest, fixed incomes and must pay close attention to their monthly expenses. South Dakota's senior citizens worked very hard all of their lives as farmers, small business owners, teachers, and parents. In their retirement, all they are hoping for is an opportunity to enjoy a basic level of comfort and certainty.

Unfortunately, as the cost of health care continues to rise at an alarming rate, it becomes more and more difficult for seniors to achieve this sense of security during retirement. According to the Kaiser Family Foundation, the United States spent about $2 trillion on health care in 2005, almost three times the $696 billion spent in 1990. That $2 trillion represents 16 percent of the gross domestic product. The rate at which our Nation's health care

spending increases is also troubling; health care spending has exceeded economic growth in every decade since the 1970s.

These increasing health care costs hit the pocketbook of every American, but our senior citizens, many of whom live on fixed incomes, have a particularly hard time making ends meet while health care costs climb. The Centers for Medicare and Medicaid Services, or CMS, recently announced that the Medicare Part B premium, which covers seniors' doctor visits and other nonhospital services, would increase 3.1 percent in 2008. CMS correctly noted in its press release that this is smallest percentage increase in the Part B premium since 2001. However, CMS failed to point out that the amount seniors will pay for Part B premiums in 2008, $96.40, is more than double what they paid in 2000. Our Nation's seniors simply cannot continue to absorb these skyrocketing health care costs.

This doubling of Part B premiums occurred while many Medicare beneficiaries incurred additional premium costs for the Part D prescription drug program. CMS estimates that premium costs for Part D will average $25 per month. However, a recent analysis by the Kaiser Family Foundation concludes that seniors enrolled in standalone prescription programs will experience a 17-percent increase in their premiums next year. Both Part D and Part B premiums generally are deducted from a senior's Social Security check.

While seniors can expect a modest cost-of-living increase in their Social Security benefits every year, this increase has not kept up with the pace of increased health care costs and specifically Medicare premium costs. The Social Security Administration, SSA, announced that all Social Security and Supplemental Security Income, SSI, beneficiaries would receive a 2.3-percent cost-of-living adjustment, COLA, beginning in January 2008. Each year, Social Security benefits are updated based on the overall rate of inflation as calculated by the Bureau of Labor Statistics. COLAs are not intended to provide anybody with a ''raise'' but are instead intended to ensure that a beneficiary's monthly payment has the same buying power that it had the year before. A 2.3-percent increase isn't much but should help retirees and individuals with disabilities living on a fixed income survive as the prices of food, housing, clothing, and other goods continue to increase.

I know that Social Security beneficiaries need every penny of their COLA, and it is important that rising Medicare costs not completely consume the Social Security COLA. In 1986, a hold-harmless provision took effect to ensure that no beneficiary's Medicare Part B premium increase could exceed his or her Social Security COLA in any given year. This ensured that no senior would receive a reduced Social Security check due to a Part B premium increase. However, this hold-harmless provision does not apply to Part D premiums, and the increasing cost of both programs is quickly consuming any small increase beneficiaries see in their Social Security checks. This policy is subjecting the incomes of retirees and individuals with disabilities to a tight squeeze. Without a legislative change, millions of retirees will likely see much or all of their COLA wiped out by increases in Medicare premiums over the next several years. We owe it to America's seniors to protect the COLA from being completely consumed by Medicare premium increases.

This is why I have introduced the Social Security COLA Protection Act of 2007, which will protect retirees by ensuring that no more than 25 percent of a senior's COLA is absorbed by the increase in Medicare premiums. This important legislation will protect the financial security of many retirees in my home State and across the country. I thank all of the Members who have introduced this bill with me and urge the rest of my colleagues to join us in our effort.

SPENDING IDENTIFICATION

Mr. BINGAMAN. Madam President, I ask unanimous consent that the following letter and attachment be printed in the RECORD.

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

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, February 4, 2008.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: S. 2483, the National Forests, Parks, Public Land, and Reclamation Projects Authorization Act of 2007, is a collection of 56 separate legislative measures under the jurisdiction of the Committee on Energy and Natural Resources. Forty-five consist of the text of separate bills passed by the House of Representatives, nine are drawn from separate subtitles of another House-passed bill, and one is a House-passed concurrent resolution. Only one provision, section 482, contains new matter that has not passed the House of Representatives. A complete list of the House bills (and their Senate companion measures, where they exist) was printed in the Congressional Record on December 13, 2007, at pages S15474–S15475.

I assembled the 56 measures into a single bill in order to facilitate their consideration by the Senate. Although S. 2483 was placed on the Calendar without referral to the Committee on Energy and Natural Resources, most of the House bills that make up S. 2483 have been reported, or ordered reported, by the Committee.

Rule XLIV of the Standing Rules of the Senate provides that, before proceeding to the consideration of a bill, the chairman of the committee of jurisdiction must certify that each congressionally designated spending item in the bill and the name of the Senator requesting it has been identified and posted on a publicly accessible website. The term ''congressionally designated spending item'' is broadly defined, in pertinent part, to include ''a provision . . . included primarily at the request of a Senator . . . authorizing . . . a specific amount of discretionary budget authority . . . for . . . expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.''

Ten of the House-passed bills incorporated into S. 2483 contain provisions authorizing the appropriation of specific amounts targeted to specific entities or localities. These authorizations are included in S. 2483 because they are part of the House-passed text. No Senator submitted a request to me to include them.

In the interest of furthering the transparency and accountability of the legislative process, however, I have posted a list of the specific authorizations in S. 2483 on the Committee on Energy and Natural Resources' website. The list includes the name of the principal sponsor of the Senate companion measure that corresponds to the House-passed bill. A copy of the list is attached for your convenience.

In addition, I have asked the principal sponsor of the Senate companion measure of each House bill contained in S. 2483 to certify that neither the Senator nor the Senator's immediate family has a pecuniary interest in the item, and have posted the certifications on the Committee's website. All certifications received by the Committee pursuant to paragraph 6 of Rule XLIV are posted on the Committee's website as soon as practicable after they are received in accordance with paragraph 6(b).

Thus, in accordance with Rule XLIV of the Standing Rules of the Senate, I hereby certify that each congressionally directed spending item in S. 2483 has been identified through a list and that the list was posted on the Committee's publicly accessible website at approximately 2:30 p.m. on February 4, 2008.

Sincerely,

JEFF BINGAMAN,
Chairman.

COMMITTEE ON ENERGY AND NATURAL RESOURCES CONGRESSIONALLY DIRECTED SPENDING ITEM CERTIFICATION PURSUANT TO RULE XLIV OF THE STANDING RULES OF THE SENATE

S. 2483—THE NATIONAL FORESTS, PARKS, PUBLIC LAND, AND RECLAMATION ACT OF 2007

Provisions in S. 2483 authorizing appropriations in a specific amount for expenditure with or to an entity or targeted to a specific State, locality, or congressional district, other than through a statutory or administrative formula-driven or competitive award process:

Section	Program or entity	State	Senate bill sponsor
333(e)	American Latino Museum Commission	DC	Salazar.
334(j)	Hudson-Fulton and Champlain Commissions	NY & VT	Clinton.
342(f)	Lewis & Clark Visitor Center	NE	Hagel.
409	Hallowed Ground National Heritage Area	VA	Warner.
430	Niagara Falls National Heritage Area	NY	Schumer.
449	Abraham Lincoln National Heritage Area	IL	Durbin.

Section	Program or entity	State	Senate bill sponsor
461	Multiple National Heritage Areas	OH, PA, MA, SC	Voinovich.
		WV TN, GA, IA, & NY	none.
504(d)	Watkins Dam	UT	Hatch.
505	New Mexico water planning assistance	NM	Domenici.
509	Multiple Oregon water projects	OR	Smith/Wyden.
511	Eastern Municipal Water District	CA	Feinstein.
512	Inland Empire & Cucamonga water projects	CA	Feinstein.
513	Bay Area water recycling program	CA	Feinstein.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

REMEMBERING FORMER PRESIDENT RAFIQ HARIRI

● Mr. OBAMA. Madam President, the continued deadlock over Lebanon's Presidency brings further instability to an important country in the Middle East. We cannot idly stand by as an emerging democracy whose people have long ties to the United States teeters on the verge of collapse. The United States must turn the page on the Bush administration's failed Lebanon policy and replace hollow rhetoric with sustained diplomatic engagement. We must work with our European and Arab allies to foster a new Lebanese consensus around a stable and democratic Lebanon.

With the approach of the third anniversary of the assassination of former Prime Minister Hariri, our thoughts are with the Lebanese people as they struggle against extremist forces and continued intervention in their national affairs by Syria and Iran. Across the broader Middle East, the failures of the Bush administration are everywhere manifest. Instead of defeating extremists and elevating the cause of freedom, the administration's Middle East record includes an unfinished war in Afghanistan; a war in Iraq that should have never been authorized that has cost us precious lives, trillions of dollars, the readiness of our military, and our standing in the world; a too-long neglected Israeli-Palestinian peace process; and an emboldened Iran taking advantage of waning American influence throughout the region, and our refusal to use direct diplomacy to advance our interests.

Add to this string of failures the state of affairs in deeply divided Lebanon, once heralded by the President as a stepping stone in his ''forward march of freedom.'' During its first term, the Bush administration largely ignored the country. It took the brutal assassination of Prime Minister Rafiq Hariri in February of 2005 to wake it from its stupor. At that time, the administration acted appropriately and pressed the Syrians to end their oppressive presence in Lebanon and called for an international effort to identify and punish those responsible for the assassination.

But, as with many parts of the world, the administration trumpeted the Cedar Revolution as its own success when the real credit should have gone to the people of Lebanon. And, as is often the case, there was no follow-through by the administration to consolidate democratic gains, and momentum was lost.

As a result, the hope and opportunity for change that characterized Lebanon 2 years ago has been replaced by cynicism and renewed civil strife. In that time, Lebanon has witnessed a string of political assassinations aimed at critics of Syrian influence that threaten to undermine the very foundations of its democracy; a devastating war between Israel and Hizbullah; a deepening political standoff between the government of Prime Minister Fouad Siniora and the opposition; and a long and bloody confrontation between Lebanon's army and an al-Qaida-inspired group of extremists.

It is time to engage in diplomatic efforts to help build a new Lebanese consensus. These efforts should focus on the need for electoral reform, an end to the current corrupt patronage system, and the development of the economy so as to provide for a fair distribution of services, opportunities, and employment.

The United States can play a positive role in helping achieve this consensus. We should support the efforts of our Arab allies and work with them to promote compromise among Lebanon's disparate groups. We should support the implementation of all U.N. reforms including the tribunal established to try those accused of assassinating former Prime Minister Hariri. We should work with our European allies and the Sarkozy government in France in calling for an all-party intra-Lebanese dialogue. Finally, we must make clear that part of any national compact must be the disarmament of all militias.

Moreover, we must support the implementation of U.N. Security Council resolutions that reinforce Lebanon's sovereignty, especially resolution 1701 banning the provision of arms to Hizbullah, which is violated by Iran and Syria. As we push for national consensus, we should continue to support the democratically elected government of Prime Minister Siniora, strengthen the Lebanese army, and insist on the disarming of Hizbullah, before it drags Lebanon into another unnecessary war. And it is vital that we work with the international community and private sector to rebuild Lebanon and get its economy back on its feet.

As the tragic events of the past few years make clear, what happens in Lebanon affects other American priorities in the region, including the fight against al-Qaida and other extremists, as well as opportunities for regional stability and peace. To neglect Lebanon would not only serve our interests badly, it would fail a nation whose people have suffered too much for too long a nation that could now be on the edge of a new precipice.●

ADDITIONAL STATEMENTS

IN MEMORY OF EARL GREENBERG

● Mrs. BOXER. Madam President, I wish to honor the life of an amazing Californian, Earl Greenberg. Earl recently died from cancer in his adopted home of Palm Springs. He will be missed by so many there and by all those whose lives he touched around the Nation.

Earl Greenberg's life was marked by an enduring sense of optimism that all things were possible. In the entertainment industry, he created hit television shows and won an Emmy Award. But his contributions went far beyond the entertainment and business worlds. Earl worked every day to make people's lives better, and he had the unique gift of convincing countless others to join him in that noble task.

In the desert region, Earl led in the creation of the Palm Springs International Film Festival, which has become a truly international event, drawing hundreds of thousands to see the very best in film.

In 1994, when his partner, Rick Weiss, died of AIDS, Earl turned his profound grief into action to change lives. He created the Weiss Apartments in Santa Monica where people with HIV/AIDS can live. He also created the Rick Weiss Humanitarian Awards to raise funds to help organizations that seek a cure and help people living with HIV/AIDS.

His good works did not stop there. Earl was also active with the Desert Cancer Society, Desert AIDS Project, Barbara Sinatra Children's Center, Angel View Crippled Children Foundation, Shelter from the Storm, AIDS Assistance Program, the Stroke Activity Center, and Eisenhower Medical Center, giving both his time and money to improve lives and restore health.

My heart goes out to all of Earl's loved ones. Earl's business and life partner is David Peet. Together they shared a love for one another and a true zest for life. I know David will do whatever he can to continue Earl's work. Earl was a loving father. He is survived by his son, Ari Greenberg, daughter, Kathryn Claire, grandchildren, and brothers. I share my deepest condolences for their loss.

Meeting Earl was such an honor for me, and watching him work was always a learning and inspiring experience. While so many in the desert and across California grieve today because of his loss, we know that countless people are

living better lives because of his generosity and philanthropy. And there is no greater legacy than that.●

TRIBUTE TO IRVING HERRMAN

● Mr. BROWN. Madam President, Mr. Irving Herrman, member to the ''greatest generation,'' will be 90 years old on February 5, 2008. He was born in Akron, OH, the second of three sons of Armand and Therese Herrman and a first-generation American. His parents were Eastern European Jews who came to this country at the end of the 19th century.

Mr. Herrman graduated from South High School in Akron and attended the University of Akron. He began working for Mr. Milton Radney until he joined the Army Air Corps and served during World War II; he was stationed in England. It was in England where he met his wife, Vera Grace Cressey. They married on March 19, 1945, and returned to Akron and then Cuyahoga Falls after the war, where they raised a beautiful family together.

Upon returning to the Akron area, Mr. Herrman resumed his position with the Radney Cigarette Company where he managed the office. He remained with the company until he retired in 1982. He then worked parttime for H.R. Block until 1998. Mrs. Herrman died in 2000. Mr. Herrman loves his family dearly. He has two daughters and sons-in law, Brenda H. and Steven Lipp and Judith H. and Fred Jenkins; he has six grandchildren: Emily Lipp Sirota, Zach Lipp, Nate Lipp, Jake Plattner, Rachel Plattner and Maggie Plattner.

Mr. Herrman is an active and beloved member of the community. He has been a member of Temple Israel for over 50 years. He has been a longtime member of the Hakoah Club at the Jewish Community Center, holding every office in that organization, including president. He is also a member of the Jewish War Veterans, holding offices in that organization, as well. In his retirement, he volunteered at local hospitals. One of Mr. Herrman's favorite pastimes is bowling. He won many competitions and rolled a 300 game in league play. He is also an avid ping-pong player and continues to enjoy golf and travel. But his favorite activity of all is spending time with friends and family.

Mr. Herrman's life is one that represents the ''greatest generation:'' a life of family and service to country and community. It is people like Mr. Herrman who have built this country and made it great.●

CELEBRATING LULAC'S 78TH ANNIVERSARY

● Mr. LUGAR. Madam President, I appreciate this opportunity to join my many friends from the Hispanic community in Indiana and across the country as we celebrate the 78th anniversary of the founding of the League of United Latin American Citizens, better known as LULAC. This is a significant milestone and one in which LULAC's members should take great pride.

Since its inception on February 17, 1929, in Corpus Christi, TX, LULAC has championed the cause of Hispanic-Americans in education, employment, economic development, and civil rights. To carry out this mission, LULAC has developed a comprehensive set of nationwide programs fostering educational attainment, job training, housing, scholarships, citizenship, and voter registration. Through the years, LULAC's dedication to fostering greater opportunities for young people through its scholarship opportunities has been remarkable. It has enabled thousands to pursue and reach their higher education goals.

Today, LULAC is recognized as the largest and oldest Hispanic civil rights and service organization in the United States. LULAC's commitment to the advancement of Latinos through its 700 chapters nationwide has served as a model to many other emerging coalitions.

Millions of Hispanic-Americans have worked tirelessly to provide for their families, strengthen their communities, and enrich our national culture. I wish LULAC and its members every success as they work on behalf of Hispanic-Americans across our State and Nation.●

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–4880. A communication from the President of the United States, transmitting, pursuant to law, the Budget of the United States Government for Fiscal Year 2009; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on the Budget; and Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 2589. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the energy employees occupational illness compensation program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 2590. A bill to authorize the Secretary of the Interior, acting through the Director of the National Park Service, to designate the Dr. Norman E. Borlaug Birthplace and Childhood Home in Cresco, Iowa, as a National Historic Site and as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 2591. A bill to amend chapter 1 of title 17, United States Code, to provide an exemption from exclusive rights in copyright for certain nonprofit organizations to display live football games, and for other purposes; 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. SCHUMER (for himself, Mrs. CLINTON, Mr. LAUTENBERG, and Mr. MENENDEZ):

S. Res. 441. A resolution congratulating the New York Giants on their victory in Super Bowl XLII; considered and agreed to.

By Mr. CASEY (for himself, Mr. SPECTER, and Mr. LEAHY):

S. Res. 442. A resolution commemorating the life of A. Leon Higginbotham, Jr; considered and agreed to.

ADDITIONAL COSPONSORS

S. 399

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 399, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the Medicaid program.

S. 573

At the request of Ms. STABENOW, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 573, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 912

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 912, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 969

At the request of Mr. DODD, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 969, a bill to amend the National Labor Relations Act to modify the definition of supervisor.

S. 1459

At the request of Mr. MENENDEZ, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1459, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 1512

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1512, a bill to amend part E of title IV of the Social Security Act to expand Federal eligibility for children in foster care who have attained age 18.

S. 1555

At the request of Mr. LAUTENBERG, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1555, a bill to establish certain duties for pharmacies to ensure provision of Food and Drug Administration-approved contraception, and for other purposes.

S. 1981

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1981, a bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes.

S. 2060

At the request of Mr. FEINGOLD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2060, a bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee.

S. 2119

At the request of Mr. JOHNSON, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2119, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 2141

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2141, a bill to amend the Public Health Service Act to reauthorize and extend the Fetal Alcohol Syndrome prevention and services program, and for other purposes.

S. 2283

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 2283, a bill to preserve the use and access of pack and saddle stock animals on public land administered by the National Park Service, and Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals.

S. 2305

At the request of Mr. WHITEHOUSE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2305, a bill to prevent voter caging.

S. 2453

At the request of Mr. ALEXANDER, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 2453, a bill to amend title VII of the Civil Rights Act of 1964 to clarify requirements relating to nondiscrimination on the basis of national origin.

S. 2550

At the request of Mrs. HUTCHISON, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Nevada (Mr. ENSIGN), the Senator from Indiana (Mr. BAYH) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 2550, a bill to amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from collecting certain debts owed to the United States by members of the Armed Forces and veterans who die as a result of an injury incurred or aggravated on active duty in a combat zone, and for other purposes.

S. 2565

At the request of Mr. BIDEN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors 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. 2568

At the request of Mr. KERRY, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2568, a bill to amend the Outer Continental Shelf Lands Act to prohibit preleasing, leasing, and related activities in the Chukchi and Beaufort Sea Planning Areas unless certain conditions are met.

S. 2578

At the request of Mr. COLEMAN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. SANDERS), the Senator from Oregon (Mr. WYDEN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2578, a bill to temporarily delay application of proposed changes to Medicaid payment rules for case management and targeted case management services.

S.J. RES. 25

At the request of Mr. DURBIN, his name was added as a cosponsor of S.J. Res. 25, a joint resolution providing for the appointment of John W. McCarter as a citizen regent of the Board of Regents of the Smithsonian Institution.

S. RES. 432

At the request of Mr. BIDEN, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Massachusetts (Mr. KERRY), the Senator from Washington (Mrs. MURRAY), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 432, a resolution urging the international community to provide the United Nations-African Union Mission in Sudan with essential tactical and utility helicopters.

S. RES. 434

At the request of Mr. BIDEN, the names of the Senator from New Hampshire (Mr. GREGG) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. Res. 434, a resolution designating the week of February 10-16, 2008, as ''National Drug Prevention and Education Week''.

S. RES. 439

At the request of Mr. LUGAR, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Res. 439, a resolution expressing the strong support of the Senate for the North Atlantic Treaty Organization to enter into a Membership Action Plan with Georgia and Ukraine.

AMENDMENT NO. 3913

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 3913 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3915

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 3915 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3930

At the request of Mr. CARDIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of amendment No. 3930 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3967

At the request of Mr. DOMENICI, his name was withdrawn as a cosponsor of amendment No. 3967 intended to be proposed to S. 2483, a bill to authorize certain programs and activities in the Forest Service, the Department of the Interior, and the Department of Energy, and for other purposes.

AMENDMENT NO. 3973

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3973 intended to be proposed to H.R. 5140, a bill to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits.

AMENDMENT NO. 3978

At the request of Mr. WYDEN, the names of the Senator from Virginia (Mr. WEBB), the Senator from New York (Mr. SCHUMER), the Senator from Iowa (Mr. HARKIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 3978 intended to be proposed to H.R. 5140, a bill to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2591. A bill to amend chapter 1 of title 17, United States Code, to provide an exemption from exclusive rights in copyright for certain nonprofit organizations to display live football games, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I rise to introduce legislation which would modify the limitations on churches showing the Super Bowl under the NFL copyright franchise. Churches across the country were notified by the NFL not to show the Super Bowl on a big screen because it infringed their copyright. There is an exception under the copyright laws for bars. It is anomalous that you can go to a bar and see the Super Bowl, but you cannot go to a church for a social gathering and do the same. This legislation will correct that.

Mr. President, I ask unanimous consent that my full statement be printed in the RECORD.

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

INTRODUCTION OF LEGISLATION EXEMPTING RELIGIOUS ESTABLISHMENTS FROM THE PUBLIC PERFORMANCE RIGHT FOR SPORTS PROGRAMMING

Few images are more distinctly American than that of a religious community coming together not only in prayer but in fellowship to watch a major sporting event. For years, houses of worship across this country have opened up their doors and welcomed their congregation into their halls to watch the Super Bowl. They have provided families with an alternative to going to the local bar down the street to cheer for their favorite team. However, if the National Football League has its way, such gatherings will come to an end.

A strict reading of the copyright code prohibits virtually anyone from bringing a large group of people together and watching the Super Bowl. The one exception to this general rule is ''food service and drinking establishments.'' This exemption allows sports bars to show a sporting event, so long as they do so on screens that do not exceed fifty-five, 55, inches. Although the law is nearly impossible to enforce for Super Bowl parties held in places other than food service and drinking establishments, the NFL has turned its sights on churches and other houses of worship, which use the large screens normally reserved for displaying hymns to show the Super Bowl to their congregation.

Over the past several years, the NFL has begun sending churches across the country cease-and-desist letters, warning them not to show the game on their big-screen televisions and threatening them with a copyright infringement suit if they do. These religious establishments—many of which do not have enough money to even think about defending themselves against a giant such as the NFL—have had little choice but to shut down these gatherings.

This is unfortunate because many houses of worship have used these events to reach out to their members, as well as potential new members, particularly young people. As Reverend Thomas Omholt, senior pastor of St. Paul's Lutheran in Washington, DC, stated in a recent Washington Post article, ''It takes people who are not coming frequently, or who have fallen away, and shows them that the church can still have some fun.'' These churches do not charge their members to watch the game nor have they used them as fundraisers. Rather, these events provide churches with a means of connecting with the greater community and new potential members of their congregation. The uniqueness of these events is underscored by the fact that these churches do not use the Academy Awards or other popular television programming as a means of outreach.

When Congress created the sports bar exemption in 1998, they did so based on the rationale that the display of copyrighted performances—such as football games—in sports bars and similar establishments did not negatively impact the overall viewership for the game and value of the rights to the game. The same rationale applies to churches. Allowing churches to show the game would not diminish the overall viewership for the Super Bowl. If anything, it increases the viewership by making it a social event and bringing people out to watch the game who might not have watched it at home or in a bar.

Today, I am introducing legislation that will create a new exemption for religious establishments. This legislation will provide churches and other houses of worship with the protection that they need to gather to watch the Super Bowl without fear of being sued for copyright infringement. This exemption will have limitations. For example, in order to qualify for the exemption, a church may not charge a fee to view the game. This will ensure that religious establishments do not unfairly profit from the NFL's copyright. Further, the exemption only applies to the live broadcast of a professional football game at the church or house of worship. A church may not tape the game to show at a later date or rebroadcast the game to another location. In other words, the legislation simply provides churches with a limited yet justifiable exemption to allow them to bring their congregation together to watch the Super Bowl.

I am aware that some may argue that this bill implicates constitutional concerns. This is not the first time that we have recognized the unique needs of the religious community in the Copyright Code. Indeed, the section of the Copyright Code that we are amending already has an exemption for houses of worship and other religious assemblies for the use of copyrighted works of a religious nature. Although the Constitution does not require the creation of an exception in this case, it is reasonable to pursue one. In preparing this measure, my staff has researched the issue and spoken with some of the foremost experts in the field of First Amendment law. They share our view that this legislation appears consistent with the Establishment Clause of the Constitution. This legislation will not further entangle Government with religion but instead accommodates the needs of houses of worship and recognizes their important role in the communities they serve.

In a time when our country is divided by war and anxious about a fluctuating economy, these type of events give people a reason to come together in the spirit of camaraderie. We, Congress, need to recognize the unique need that these events satisfy and provide religious establishments with the protection that they need. I urge my colleagues to join me in this effort.

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

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 441—CONGRATULATING THE NEW YORK GIANTS ON THEIR VICTORY IN SUPER BOWL XLII

Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. LAUTENBERG, and Mr. MENENDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 441

Whereas, on Sunday, February 3, 2008, the New York Giants defeated the New England Patriots by a score of 17–14 to win Super Bowl XLII;

Whereas the Giants, who were double-digit underdogs, overcame overwhelming odds to defeat the Patriots;

Whereas Giants owners John K. Mara and Steve Tisch have built the Giants organization into a championship caliber team;

Whereas Eli Manning, having led a game-winning drive for 83 yards at the end of the fourth quarter, was named the game's Most Valuable Player;

Whereas David Tyree's game-breaking catch will forever go down in Super Bowl history as one of the greatest plays ever;

Whereas the relentless onslaught of the Giants defensive line, highlighted by spectacular plays by Justin Tuck, Osi Umenyiora, and team Captain Michael Strahan, sacked Patriots quarterback Tom Brady 5 times;

Whereas the Giants capped off an amazing playoff run by winning all 4 playoff games on the road as underdogs;

Whereas Giants head coach Tom Coughlin, in his first appearance in the Super Bowl, lead his team to victory from the wild card spot;

Whereas this marks the third time in franchise history that the Giants have won the Super Bowl;

Whereas the Giants attract fans from New York, New Jersey, and Connecticut to their home games in East Rutherford, New Jersey, and to away games across the country; and

Whereas Giants fans from across the tri-state region have rallied together to cheer the Giants for coming from behind to win in the biggest upset in Super Bowl history: Now, therefore, be it

Resolved, That the Senate congratulates the New York Giants on their victory in Super Bowl XLII.

SENATE RESOLUTION 442—COMMEMORATING THE LIFE OF A. LEON HIGGINBOTHAM, JR

Mr. CASEY (for himself, Mr. SPECTER, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 442

Whereas the late A. Leon Higginbotham, Jr., dedicated his life to eliminating racial barriers in the society of the United States;

Whereas, having grown up during the Great Depression and the era of Jim Crow laws, A. Leon Higginbotham, Jr., overcame a childhood marked by economic hardship and segregation;

Whereas, having personally experienced the effects of racism, A. Leon Higginbotham, Jr., sought an education and career in law during which he fought institutionalized racism in the United States judicial system;

Whereas A. Leon Higginbotham, Jr., began his legal career as a law clerk to Justice Curtis Bok of the Superior Court of Pennsylvania and soon became the youngest and

first African-American Assistant District Attorney in the city of Philadelphia;

Whereas, in 1954, when African Americans were largely excluded from professional opportunities, A. Leon Higginbotham, Jr., became a founding member of Norris, Schmidt, Green, Harris, & Higginbotham, the first African-American law firm in Philadelphia;

Whereas, while still in private practice, A. Leon Higginbotham, Jr., served as Special Deputy Attorney General for the Commonwealth of Pennsylvania, Special Hearing Officer in the Department of Justice, President of the Philadelphia chapter of the National Association for the Advancement of Colored People, a member of the Executive Board of the Governor's Committee of One Hundred for Better Education, Commissioner of the Pennsylvania Fair Employment Practices Commission, Commissioner of the Pennsylvania Human Rights Commission, and a member of the board of directors for various legal, political, and nonprofit organizations within Pennsylvania;

Whereas, having been appointed by President John Fitzgerald Kennedy to the Federal Trade Commission in 1962, A. Leon Higginbotham, Jr., became not only the first African American to serve on a Federal regulatory commission but also the youngest person to be named as a Commissioner of the Federal Trade Commission;

Whereas, having recognized A. Leon Higginbotham, Jr.'s gifts as both a lawyer and a public servant, both President Kennedy and President Lyndon Baines Johnson nominated A. Leon Higginbotham, Jr., as a Federal judge on the United States District Court for the Eastern District of Pennsylvania;

Whereas, upon confirmation as a Federal judge at the age of 35, A. Leon Higginbotham, Jr., became the youngest person appointed to the United States District Court for the Eastern District of Pennsylvania and one of the youngest ever appointed to a Federal bench;

Whereas, in his role as a Federal judge, A. Leon Higginbotham, Jr., served as a mentor to numerous young attorneys, affording them the opportunity to gain critical exposure to the legal profession;

Whereas A. Leon Higginbotham, Jr., played an extraordinary role in the civil rights movement as an advisor to President Johnson after the tragic assassination of Dr. Martin Luther King, Jr., and as a member of the National Commission on Causes and Prevention of Violence;

Whereas, as the first African-American member of the Yale University Board of Trustees, A. Leon Higginbotham, Jr., successfully fought to allow women to enroll as undergraduates in Yale College;

Whereas, in 1977, President Jimmy Carter acknowledged A. Leon Higginbotham Jr.'s work as both a judge and a scholar and appointed him to the United States Court of Appeals for the Third Circuit;

Whereas A. Leon Higginbotham, Jr,. sat on the Court of Appeals for 16 years and served as Chief Judge from 1989 until 1991 and as Senior Judge through the completion of his public career in 1993;

Whereas, through his rulings and subsequent writing, A. Leon Higginbotham, Jr., vigorously fought racial bias and prejudice;

Whereas, upon retirement from the bench, A. Leon Higginbotham, Jr., became the Public Service Jurisprudence Professor at Harvard University, dedicating the remainder of his life to educating and empowering future generations to continue the pursuit of equal justice under the law;

Whereas, A. Leon Higginbotham, Jr., served as the chairman of an American Bar Association panel that in 1993 issued the landmark report ''America's Children at Risk: A National Agenda for Legal Action'', studying the status of children in the society and legal system of the United States;

Whereas, in 1993, A. Leon Higginbotham, Jr., served as counsel to the law firm of Paul, Weiss, Rifkind, Wharton, & Garrison, where he litigated a host of pro bono matters, including voting rights in Louisiana, and advocated free elections in South Africa;

Whereas, A. Leon Higginbotham, Jr., brought his passion for equal justice into the international arena as a consultant to the President of South Africa, Nelson Mandela, on the formation of the Constitution of South Africa, and as an advocate for grass roots democracy education in South Africa;

Whereas, in 1995, A. Leon Higginbotham, Jr., continued his commitment to public service when appointed by President William Jefferson Clinton to the United States Commission on Civil Rights;

Whereas, as an author and contributor to more than 100 publications and academic works, A. Leon Higginbotham, Jr., left a legacy as a renowned scholar of racial and social justice issues in the United States;

Whereas, A. Leon Higginbotham, Jr.'s critically acclaimed historical works, including ''In the Matter of Color: The Colonial Period'', published in 1978, and ''Shades of Freedom: Racial Politics and Presumptions in the American Legal Process'', published in 1996, continue to provide invaluable insight into the history of race relations in the United States;

Whereas, as a sought-after public speaker, after his retirement A. Leon Higginbotham, Jr., delivered more than 100 speeches annually to motivate the next generation of people in the United States to continue the fight for racial justice;

Whereas A. Leon Higginbotham, Jr., received numerous honors and awards during his lifetime, including the Presidential Medal of Freedom, the Raoul Wallenberg Humanitarian Award, the National Association for the Advancement of Colored People Spingarn Medal, the American Civil Liberties Union Medal, the Lifetime Achievement Award from the Philadelphia Bar Association, the Silver Gavel Award from the American Bar Association, America's Ten Outstanding Young Men of 1963 from the United States Junior Chamber of Commerce, and honorary degrees from more than 60 universities; and

Whereas A. Leon Higginbotham, Jr.'s work as an esteemed jurist, scholar, and public servant helped transform the Nation's perception of race: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the life of the late A. Leon Higginbotham, Jr.;

(2) salutes the lasting legacy of A. Leon Higginbotham, Jr.'s achievements; and

(3) encourages the continued pursuit of A. Leon Higginbotham, Jr.'s vision of eliminating racial prejudice from all aspects of our society.

The PRESIDING OFFICER. The senior Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset, I compliment my distinguished colleague from Pennsylvania, Senator CASEY, and congratulate him for his initiative in organizing the tribute to Judge Higginbotham.

Later this afternoon, there will be a symposium on the legacy of Judge Higginbotham with very distinguished scholars: Dr. John Hope Franklin, Dr. and Professor Charles Ogletree, and the Honorable ELEANOR HOLMES NORTON, who was Judge Higginbotham's first law clerk.

Judge Higginbotham's record has been appropriately described by Senator CASEY. I know the managers are interested to move ahead, so I ask unanimous consent that the full text of my statement be printed in the RECORD, along with an article published, which I wrote, in the Philadelphia Tribune on January 27 of this year.

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

HONORING THE LATE JUDGE A. LEON HIGGINBOTHAM, JR.

Mr. SPECTER. Mr. President, I seek recognition to join Senator CASEY in introducing a resolution to pay tribute to the late Judge A. Leon Higginbotham, Jr.

Judge Higginbotham was a Philadelphia lawyer, legal scholar, jurist and statesman who did not give in to prejudice, despair, or age. From his appointment at the age of 35 to the federal bench until his death at age 70, he pursued civil rights, justice and equality for all Americans. His message was positive—while much had been accomplished, even more remains to be done. Initially studying engineering in college, he said he was motivated to study law when he was living off campus in an unheated attic, the outside temperature hit zero, and the university president said he was denying the request to allow Higginbotham to live in a heated section of the dorm because ''the law doesn't require us to.'' He said another incident was a second catalyst: when traveling as a member of his college's debate team, Higginbotham was denied a room in a hotel with his classmates and was required to stay at a rat-infested ''colored YMCA.''

After his graduation from Yale Law School in 1952, Higginbotham received a chilly reception and no job offers from law firms in Philadelphia. Undeterred, he began his career as a law clerk for Judge Curtis Bok of the Philadelphia Court of Common Pleas. Having demonstrated himself to be a capable and intelligent lawyer, he was hired by then district attorney Richardson Dilworth. In 1954, he left the office to become a founding member of the first African American law firm in Philadelphia: Norris, Schmidt, Green, Harris, and Higginbotham. From 1960 to 1962, he continued to advance civil rights by serving as president of the Philadelphia chapter of the NAACP.

The Senate confirmed Judge Higginbotham's appointment to the federal bench in 1964, despite procedural obstacles in the Senate Judiciary Committee. When he parked his car on his first day as a judge, a guard made a derogatory comment and told him the lot was reserved for judges. Judge Higginbotham later described the incident as ''typical of a lot of things which have happened to both minorities and to women.'' Indeed, Higginbotham was also a strong advocate for women's rights. As the first African American trustee of Yale, he pushed for opening the University to women. His first law clerk was Eleanor Holmes, who later became Eleanor Holmes Norton, who currently serves as the Delegate to the U.S. House of Representatives for the District of Columbia.

Judge Higginbotham was a prolific writer who focused on facts and careful legal analysis. In his nearly three decades as a judge, Judge Higginbotham authored more than 600 published opinions, taught at the University of Pennsylvania, and wrote important books on the history of race in America—books such as ''In the Matter of Color'' and ''Shades of Freedom''. After retiring from the bench, Judge Higginbotham founded the South Africa Free Election Fund and helped

South Africa's newly elected government draft a new constitution.

Nelson Mandela said ''Judge Higginbotham's work and the example he set made a critical contribution to the course of the rule of law in the United States and a difference in the lives of African Americans, and indeed the lives of all Americans. But his influence also crossed borders and inspired many who fought for freedom and equality in other countries. . . .'' Jesse Jackson said of Judge Higginbotham: ''What Thurgood Marshall and Charles Hamilton Houston were to the first half of this century, Judge Higginbotham was to the second half.'' After his funeral, Rosa Parks commented, ''I think he really had a great idea that we are all equal people.''

As Yale Law graduates, former district attorneys and public servants, Higginbotham and I often crossed paths. I am grateful for the opportunity to have known this extraordinary man and his passionate and steadfast dedication to civil rights and the betterment of this country. As we celebrate Black History Month, I am honored to co-sponsor with my colleague from Pennsylvania, Senator CASEY, a resolution honoring the lifetime achievement of the late Judge A. Leon Higginbotham, Jr.

___

[From the Philadelphia Tribune, Jan. 27, 2008]

LEON HIGGINBOTHAM

(By Arlen Specter)

Two weeks before his death in 1998, A. Leon Higginbotham, Jr. appeared before the House Judiciary Committee to state his view that the charges against President Clinton did not warrant removal from office. When a Congressman said that ''real Americans'' thought otherwise, Higginbotham replied: ''Sir, my father was a laborer, my mother a domestic. I came up the hard way. Don't lecture to me about the real America.'' After the hearing, C-SPAN cameras showed committee members and staffers surrounding Higginbotham to request photographs, while he leaned on the cane he used following three life-threatening operations.

Leon Higginbotham was a Philadelphia lawyer, legal scholar, jurist and statesman who did not give in to prejudice, despair, or age. From his appointment at the age of 35 to the federal bench until his death at age 70, he pursued civil rights, justice and equality for all Americans. His message was a positive one: while much had been accomplished, even more remains to be done. Initially studying engineering in college, he said he was motivated to study law when he was living off campus in an unheated attic, the outside temperature hit zero, and the university president denied the request to allow Higginbotham to live in a heated section of the dorm because ''the law doesn't require us to.'' He said another incident served as a catalyst: when traveling as a member of his college's debate team, Higginbotham was denied a room in a hotel with his classmates and was required to stay at a rat-infested ''colored YMCA.''

After his graduation from Yale Law School in 1952, Higginbotham received a chilly reception and no job offers from law firms in Philadelphia. Undeterred, he began his career as a law clerk for Judge Curtis Bok of the Philadelphia Court of Common Pleas. Having demonstrated himself to be a capable and intelligent lawyer, he was hired by then District Attorney Richardson Dilworth. In 1954, he left the office to become a member of the first African American law firm in Philadelphia, Norris, Schmidt, Green, Harris, and Higginbotham. From 1960 to 1962, he continued to advance civil rights by serving as President of the Philadelphia chapter of the NAACP.

The Senate confirmed Judge Higginbotham's appointment to the federal bench in 1964, despite procedural obstacles in the Senate Judiciary Committee. When he parked his car on his first day as a judge, a guard yelled ''Hey, boy'' and told him the lot was reserved for judges. Judge Higginbotham later described the incident as ''typical of a lot of things which have happened to both minorities and to women.'' Indeed, Higginbotham was also a strong advocate for women's rights. As the first African American trustee of Yale, he pushed for opening the University to women. His first law clerk was Eleanor Holmes, who later became Eleanor Holmes Norton, who currently serves as the Delegate to the U.S. House of Representatives for the District of Columbia.

Higginbotham was a prolific writer who focused on facts and careful legal analysis. In his 13 years as a trial judge and his tenure on the Third Circuit Court of Appeals from 1977 to 1993, Higginbotham authored more than 600 published opinions, taught at the University of Pennsylvania, and wrote important books on the history of race in America in Shades of Freedom and In the Matter of Color. After retiring from the bench, Judge Higginbotham founded the South Africa Free Election Fund and helped South Africa's newly-elected government draft a new constitution.

Nelson Mandela said ''Judge Higginbotham's work and the example he set made a critical contribution to the course of the rule of law in the United States and a difference in the lives of African Americans, and indeed the lives of all Americans. But his influence also crossed borders and inspired many who fought for freedom and equality in other countries . . . .'' Jesse Jackson said of Judge Higginbotham: ''What Thurgood Marshall and Charles Hamilton Houston were to the first half of this century, Judge Higginbotham was to the second half.'' After his funeral, Rosa Parks commented, ''I think he really had a great idea that we are all equal people.''

As Yale Law graduates, former District Attorneys and public servants, Higginbotham and I often crossed paths. I am grateful for the opportunity to have known this extraordinary man and his passionate and steadfast dedication to civil rights and the betterment of this country. As we celebrate Black History Month, we should consider the lessons we can learn from the life and words of Leon Higginbotham.

Mr. SPECTER. Just a few personal comments.

Mr. President, I knew Judge Higginbotham and am honored and proud to have called him a personal friend. He graduated from Yale Law School a little ahead of me. He found it very difficult to get a job because of racial prejudice, which was present in Philadelphia at the time in the early 1950s. It was the same era when William T. Coleman, Jr.—who had been a law clerk to Justice Felix Frankfurter and later was Secretary of Transportation in the Ford administration—could not find a job and had to travel to New York City to find a job.

Leon Higginbotham clerked for a very distinguished common pleas judge, Curtis Bok—really an outstanding scholar and later a Pennsylvania Supreme Court justice. He found a job with the district attorney, a very distinguished district attorney, Richardson Dilworth, who later became mayor of Philadelphia.

Judge Higginbotham then was a founding partner of an African-American law firm: Norris, Schmidt, Green, Harris & Higginbotham. That is what had to be done in those days to find a job and develop a law practice if you were an African-American in the city of Philadelphia—really across our country.

Senator CASEY has referred to the indignity Judge Higginbotham had as a student at Purdue, when he was excluded from living in a heated dormitory because it was not required by the law.

He was a noted scholar, an author, and wrote the books ''In the Matter of Color'' and ''Shades of Freedom.'' In my prepared text, I comment about compliments paid to Judge Higginbotham by Nelson Mandela, Jesse Jackson, and Rosa Parks.

This is a good occasion—Black History Month—to pause for a few moments to pay tribute to a great American and a great jurist, a member of the Federal Trade Commission, a Federal judge at 35, and later chief judge of the United States Court of Appeals for the Third Circuit.

Mr. CASEY. Mr. President, I rise today in support of a resolution honoring the lifetime achievements of Judge A. Leon Higginbotham, Jr. The chairman of the Judiciary Committee, Senator LEAHY, as well as my colleague from Pennsylvania and ranking member of the Judiciary Committee, Senator SPECTER, join me as original cosponsors of this resolution. We are honored to pay tribute to a remarkable lawyer, jurist, scholar and advocate whose story inspires us.

The Bible says, ''There were giants in the earth in those days.'' Leon Higginbotham was a giant. He stood six feet six inches all and towered above most of the rest of us in his intellect, his compassion and his commitment to equality. Today, those who knew him and worked with him, and those who, like me, admired him from afar, have gathered in our Nation's Capital to honor his life and his legacy.

Aloysius Leon Higginbotham was born 80 years ago this month. The United States was about to enter the Great Depression and many Americans suffered under the yoke of racism and institutional, legalized segregation. Leon's young mother, who left school in the seventh grade, and his father, who worked in a Trenton, NJ factory, faced a world where most avenues to success were closed to African Americans.

Young Leon Higginbotham grew up in a household that valued hard work and education, yet the African-American community had few resources to support good schooling. ''Separate but equal'' grade schools offered a limited curriculum, small schoolhouses and often one teacher for multiple grades. This left black students effectively unable to gain admission to the nearby white high schools. In fact, in the four decades preceding Leon's entrance into

junior high, no black student from his school in Ewing Township, NJ had ever enrolled in a white high school. Without the required prerequisites, especially training in Latin, the doors to academic success were nailed shut.

Fortunately, Leon's parents believed those doors could be pried open. His mother, Emma Lee, who worked for a wealthy family, constantly told her son that education was the ''sole passport to a better life.'' In a bold, unprecedented move, she negotiated Leon's entrance into one of the best high schools in Trenton. Despite having no foundation in Latin, Leon managed to pass his freshman course. Impressed by his intellectual ability, Leon's Latin teacher offered to tutor him over the summer. Between jobs as a busboy in a local hotel and as a laborer in factories, he rode his bicycle nearly 20 miles to his teacher's home, several times a week, to improve his Latin skills. Mirroring his father's work ethic and his mother's passion for learning, Leon overcame the odds and earned his high school diploma.

In 1944, at age 16, Leon enrolled in the engineering program at Purdue University, where the student body had 6000 white students and 12 black students. Leon and his 11 fellow students were required to live in the unheated attic of a campus building. As autumn became winter, snow found its way through the flimsy roof, and the 12 students shivered their nights away, wearing earmuffs, shoes and multiple layers of clothing to bed. As the Midwestern winter grew colder, Leon requested a meeting with the university president to negotiate for a warmer place to sleep, noting that all of the white students slept in heated dormitories. The president responded, ''Higginbotham, the law doesn't require us to let colored students in the dorm. We will never do it, and you either accept things as they are or leave the university immediately.'' Leon found the president's comments especially troubling in light of the thousands of African Americans who were then serving their nation in World War II. He left the president's office determined to find a way both to serve his country and bring about lasting change.

Leon continued his academic pursuits at Purdue and became an avid debater, qualifying to attend the Big Ten debate championships. After being forced to, sleep in a YMCA overrun with mice, while his white teammates were lodged in a comfortable hotel, Leon finally decided to leave Purdue and enroll in Antioch College. His strong academic performance at Antioch persuaded members of the faculty and the board of trustees to encourage him to enroll in law school. Leon received an offer of assistance from a benefactor which would cover his first semester at Yale Law School, but Rutgers University offered him a full scholarship. Characteristically, Leon resisted pressure from friends and family and chose the steeper path, Yale.

He arrived at Yale with a cardboard suitcase and little understanding of the challenges that lay ahead. He was overwhelmed at first by the education and polish of his fellow students, many of them sons or relatives of lawyers, judges, or prominent politicians. As he recalled, ''my father was a laborer, two books in the house. One, we had purchased, a Bible; the other, my mother had gotten out of the trash of one of the people she worked for, an old dictionary. . . . I did not begin Yale at the same starting line as many of my contemporaries.''

Leon balanced his time between working at a corner store in New Haven and wrestling diligently with the law. As a research assistant to Prof. John P. Frank, Leon demonstrated ''an extraordinary verbal talent'' and achieved what Dean Wesley Sturges described as more honors in oral advocacy than anyone else in the law school at the time. Leon later said that the most significant event in his law school career was traveling to Washington, DC, to witness Thurgood Marshall's passionate advocacy before the Supreme Court in the Sweatt v. Painter case. From that moment on, Leon committed his considerable talents to the fight for what he called the ''promise of freedom'' for all people. The child who rode his bicycle to Latin lessons graduated from Yale Law School as the towering man with the deep baritone voice, who would succeed in a world almost unimaginable to his parents.

Leon decided to begin his legal career in Philadelphia. This was not an easy task in the Philadelphia of the early 1950s, but a few people recognized his potential and helped him become a clerk for Judge Curtis Bok of the Philadelphia Court of Common Pleas. He worked hard and soon became the youngest—and first ever African-American assistant district attorney—under Richardson Dilworth, who later served as mayor of Philadelphia. After 2 years in the DA's office; Leon left to found, with another future Federal judge, Clifford Scott Green, and others, Philadelphia's first African-American law firm, Norris, Schmidt, Green, Harris & Higginbotham. The Norris firm became the launching pad for a generation of successful African-American lawyers. At the same time, he pushed for social change in various roles, including president of the Philadelphia chapter of the NAACP, Special Hearing Officer for the United States Department of Justice, Commissioner of the Pennsylvania Human Rights Commission, and Special Deputy Attorney General of Pennsylvania. While juggling these public commitments, Leon always maintained close ties to the community as a director of numerous legal, political and nonprofit organizations.

In 1962, President John F. Kennedy appointed Leon to the Federal Trade Commission, making him the first African-American ever to serve on a Federal regulatory commission. Soon thereafter, Kennedy recognized Leon's work as a lawyer and public servant and nominated him for a Federal judgeship in the Eastern District of Pennsylvania. However, his confirmation faced strong resistance and repeated delays engineered by some Members of the United States Senate. After President Kennedy's death, President Lyndon B. Johnson overrode the resistance to Leon's nomination by giving him a recess appointment to the Eastern District Court. At the age of 35, Judge Leon Higginbotham became one of the youngest men ever appointed to the Federal bench.

From the beginning of his career on the bench, Judge Higginbotham was known for his scholarly, well-written opinions and his imperturbable judicial temperament. His tenure was also marked by his focus on the generations to follow him, what many came to call his ''people legacy.'' His warmth extended particularly to those on what he referred to as ''the lower end of the Courthouse bureaucracy.'' The Judge permitted young clerks and staffers to accompany him in all his activities so they could learn the full nature of the legal profession. Students from Philadelphia public high schools could be found working as interns in his office. He soon developed a diverse entourage that became known as the ''Higginbotham menagerie.'' Many of his proteges moved on to lead outstanding careers in the public arena. In fact, one of our congressional colleagues, Representative ELEANOR HOLMES NORTON of the District of Columbia, served as his first law clerk and is a living symbol of Judge Higginbotham's legacy.

In 1968, in the wake of the assassinations of Martin Luther King and Robert Kennedy, despair and violence escalated across our country. President Johnson repeatedly called on Judge Higginbotham for advice on how to restore hope and optimism in the hearts of the American people. Johnson recognized Judge Higginbotham's wisdom in the face of crisis and appointed him to the Commission on Causes and Prevention of Violence. Judge Higginbotham used that opportunity to push for ways to quell the violence of the time and to shrink the divide between Black and White America. The Judge also exerted his influence beyond racial issues and advocated for women's rights. As a trustee of the Yale Corporation, he successfully fought to allow undergraduate enrollment for women at Yale College.

In 1977, Judge Higginbotham's accomplishments, both on the bench and in civic matters, led President Jimmy Carter to appoint him to the United States Court of Appeals for the Third Circuit. Judge Higginbotham sat on the Third Circuit for 16 years, served as chief judge from 1989 to 1991, and as senior judge through the completion of his judicial career in 1993. He described his judicial philosophy as ''evolutionary in terms of what is fair and just in

a society.'' Through his rulings and subsequent writings, he reminded us that when our country was founded, the hope and promise of the Declaration of Independence and the Constitution were tarnished by the fact that the United States had over 500,000 slaves. Judge Higginbotham believed that equality for all under the law requires progressive interpretation of our founding documents and continued focus on the inequities that still exist.

As he put it, ''. . . It is possible that with the obvious pride we have in the few who make it, that we may fail to recognize how long the road behind us is and how many there are on that road who still are deprived by history of the utilization of their talents. . . . We cannot become anesthetized by the success of a few and oblivious to the deprivation of the many.''

In 1993, Judge Higginbotham retired from the bench and began a new phase of his quest to achieve racial equality under the law. Even after three decades of remarkable public service, Judge Higginbotham took no time to rest, often quoting Robert Frost's words, '' I have promises to keep. And miles to go before I sleep.'' He focused his post-judicial life on the future, often asking who in the next generation would ''carry the baton into the new millennium.'' As a professor at Harvard University, he poured his energy and passion into preparing tomorrow's leaders to take that baton. He taught numerous courses and many of his students recall his oft-repeated words: ''If you do not stand up for something, you'll fall for anything.''

Judge Higginbotham's work as a scholar and historian helped transform our Nation's perception of race in America. His thorough research of nearly 250 years of legal documents involving racial issues formed the basis for a flood of books and articles in which he dissected the many aspects of discrimination embedded in America's legal system. For example, he hosted a conference on the centennial of Plessy v. Ferguson, using the occasion to urge the young minds of the next generation to take full advantage of the hard-won opportunities created by Brown v. Board of Education. He once commented to a group of recent law school graduates, ''What should be our theme to America?. . . It is that in the long, bloody and terrible history of race in America, there is no more time for foolishness.'' His words and his actions still compel each of us to face the ugly parts of our Nation's history as well as the glorious ones, and to respond, with commitment, to the public arena.

Many remember Judge Higginbotham as what we now call a multitasker, especially during his retirement. When he wasn't teaching, he was frequently in a car on the way to the airport, dictating one of the over 100 speeches he delivered each year. When not addressing audiences, he often could be found testifying in front of the Senate Judiciary Committee, attending monthly meetings of the United States Commission on Human Rights, serving on numerous boards of trustees, including the New York Times and National Geographic, or arguing voting rights cases on behalf of the Congressional Black Caucus before the Supreme Court. He extended his fervor for equal justice overseas as a consultant to President Nelson Mandela on the formation of the South African Constitution and as an advocate for democracy education in South Africa.

Not surprisingly, Judge Higginbotham was recognized with numerous awards for his leadership as jurist, historian, scholar, advocate, mentor and ordinary citizen. His many honors include the Presidential Medal of Freedom, the Raoul Wallenberg Humanitarian Award, the NAACP Spingarn Medal, the ACLU Medal, the National Human Relations Award from the National Conference of Christians and Jews, the Silver Gavel Award from the American Bar Association, the Lifetime Achievement Award from the Philadelphia Bar Association, the Outstanding Young Man Award from the Philadelphia Chamber of Commerce, and honorary degrees from over 60 universities.

Judge Higginbotham is remembered by many, including me, as a true American hero: a giant among men, who began his life in the most modest of circumstances, yet rose to extraordinary heights. Rosa Parks, another American whose own story continues to inspire us, appropriately noted after his passing, ''I think he really had a great idea that we are all equal people.'' Rosa Parks'' words capture what I believe to be the essence of Judge Higginbotham's legacy: he helped pry open the doors leading to the American dream for ordinary people from all walks of life.

So in this month when we celebrate the achievements of African Americans, I am honored to pay tribute to Leon Higginbotham's life of courage and commitment to justice; of integrity and intellect; his life of advocacy and action, service and scholarship. Judge Higginbotham's life was a testament to the enduring power of the words ''we shall overcome.'' Leon Higginbotham helped our Nation move closer to the ideal expressed on the building across the street from this chamber: ''Equal Justice under Law.'' We are proud to have his wife, Evelyn Brooks Higginbotham, as well as numerous family members, friends, former clerks and colleagues here with us today as we honor his life and work and seek to keep the flame of Leon Higginbotham burning ever brightly.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3979. Mr. FEINGOLD (for himself, Mr. WEBB, Mr. TESTER, Mr. BIDEN, Mr. SANDERS, Mr. KENNEDY, Mr. MENENDEZ, Mr. AKAKA, Mr. DODD, and Mr. OBAMA) proposed an amendment to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

TEXT OF AMENDMENTS

SA 3979. Mr. FEINGOLD (for himself, Mr. WEBB, Mr. TESTER, Mr. BIDEN, Mr. SANDERS, Mr. KENNEDY, Mr. MENENDEZ, Mr. AKAKA, Mr. DODD, and Mr. OBAMA) proposed an amendment to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; as follows:

On page 52, line 2, strike the quotation marks and the second period and insert the following:

''SEC. 709. ADDITIONAL SAFEGUARDS FOR COMMUNICATIONS OF PERSONS INSIDE THE UNITED STATES.

''(a) LIMITATIONS ON ACQUISITION OF COMMUNICATIONS.—

''(1) LIMITATION.—Except as authorized under title I or paragraph (2), no communication shall be acquired under this title if the Government knows before or at the time of acquisition that the communication is to or from a person reasonably believed to be located in the United States.

''(2) EXCEPTION.—

''(A) IN GENERAL.—In addition to any authority under title I to acquire communications described in paragraph (1), such communications may be acquired if—

''(i) there is reason to believe that the communication concerns international terrorist activities directed against the United States, or activities in preparation therefor;

''(ii) there is probable cause to believe that the target reasonably believed to be located outside the United States is an agent of a foreign power and such foreign power is a group engaged in international terrorism or activities in preparation therefor; or

''(iii) there is reason to believe that the acquisition is necessary to prevent death or serious bodily harm.

''(B) ACCESS TO COMMUNICATIONS.—Communications acquired under this paragraph shall be treated in accordance with subsection (b).

''(3) PROCEDURES FOR DETERMINATIONS BEFORE OR AT THE TIME OF ACQUISITION.—

''(A) SUBMISSION.—Not later than 120 days after the date of enactment of the FISA Amendments Act of 2008, the Attorney General, in consultation with the Director of National Intelligence, shall submit to the Foreign Intelligence Surveillance Court for approval procedures for determining before or at the time of acquisition, where reasonably practicable, whether a communication is to or from a person reasonably believed to be located in the United States and whether the exception under paragraph (2) applies to that communication.

''(B) REVIEW.—The Foreign Intelligence Surveillance Court shall approve the procedures submitted under subparagraph (A) if the procedures are reasonably designed to determine before or at the time of acquisition, where reasonably practicable, whether a communication is to or from a person reasonably believed to be located in the United States and whether the exception under paragraph (2) applies to that communication.

''(C) PROCEDURES DO NOT MEET REQUIREMENTS.—If the Foreign Intelligence Surveillance Court concludes that the procedures submitted under subparagraph (A) do not meet the requirements of subparagraph (B),

the Court shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subparagraph to the Foreign Intelligence Surveillance Court of Review.

''(D) USE OF PROCEDURES.—If the Foreign Intelligence Surveillance Court approves procedures under this paragraph, the Government shall use such procedures in any acquisition of communications under this title.

''(E) REVISIONS.—The Attorney General, in consultation with the Director of National Intelligence, may submit new or amended procedures to the Foreign Intelligence Surveillance Court for review under this paragraph.

''(F) RELIABILITY.—If the Government obtains new information relating to the reliability of procedures approved under this paragraph or the availability of more reliable procedures, the Attorney General shall submit to the Foreign Intelligence Surveillance Court such information.

''(b) LIMITATIONS ON ACCESS TO COMMUNICATIONS.—

''(1) IN GENERAL.—At such time as the Government can reasonably determine that a communication acquired under this title (including a communication acquired under subsection (a)(2)) is to or from a person reasonably believed to be located in the United States, such communication shall be segregated or specifically designated and no person shall access such a communication, except in accordance with title I or this section.

''(2) EXCEPTIONS.—In addition to any authority under title I, including the emergency provision in section 105(f), a communication described in paragraph (1) may be accessed and disseminated for a period of not longer than 7 days if—

''(A)(i) there is reason to believe that the communication concerns international terrorist activities directed against the United States, or activities in preparation therefor;

''(ii) there is probable cause to believe that the target reasonably believed to be located outside the United States is an agent of a foreign power and such foreign power is a group engaged in international terrorism or activities in preparation therefor; or

''(iii) there is reason to believe that the access is necessary to prevent death or serious bodily harm;

''(B) the Attorney General notifies the Foreign Intelligence Surveillance Court immediately of such access; and

''(C) not later than 7 days after the date such access is initiated, the Attorney General—

''(i) makes an application for an order under title I; or

''(ii) submits to the Foreign Intelligence Surveillance Court a document that—

''(I) certifies that—

''(aa) there is reason to believe that the communication concerns international terrorist activities directed against the United States, or activities in preparation therefor;

''(bb) there is probable cause to believe that the target reasonably believed to be located outside the United States is an agent of a foreign power and such foreign power is a group engaged in international terrorism or activities in preparation therefor; or

''(cc) there is reason to believe that the access is necessary to prevent death or serious bodily harm; and

''(II) identifies the target of the collection, the party to the communication who is inside the United States if known, and the extent to which information relating to the communication has been disseminated.

''(3) DENIAL OF COURT ORDER.—If an application for a court order described in paragraph (2)(C)(i) is made and is not approved, the Attorney General shall submit to the court, not later than 7 days after the date of the denial of the application, the document described in paragraph (2)(C)(ii).

''(4) ADDITIONAL COURT AUTHORITIES.—

''(A) IN GENERAL.—The Foreign Intelligence Surveillance Court may—

''(i) limit access to communications described in paragraph (1) relating to a particular target if the Court determines that any certification submitted under paragraph (2)(C)(ii)(I) with respect to that target is clearly erroneous; and

''(ii) require the Attorney General to provide the factual basis for a certification submitted under paragraph (2)(C)(ii)(I), if the Court determines it would aid the Court in conducting review under this subsection.

''(B) FISC ACCESS.—The Foreign Intelligence Surveillance Court shall have access to any communications that have been segregated or specifically designated under paragraph (1) and any information the use of which has been limited under paragraph (5).

''(5) FAILURE TO NOTIFY.—

''(A) IN GENERAL.—In the circumstances described in subparagraph (B), access to a communication shall terminate, and no information obtained or evidence derived from such access concerning any United States person shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such access shall subsequently be used or disclosed in any manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person, or if a court order is obtained under title I.

''(B) CIRCUMSTANCES.—The circumstances described in this subparagraph are circumstances in which—

''(i) as of the date that is 7 days after the date on which access to a communication is initiated under paragraph (2), a court order described in paragraph (2)(C)(i) has not been sought and the document described in paragraph (2)(C)(ii) has not been submitted; or

''(ii) as of the date that is 7 days after an application for a court order described in paragraph (2)(C)(i) is denied, the document described in paragraph (2)(C)(ii) is not submitted in accordance with paragraph (3).

''(6) EVIDENCE OF A CRIME.—Information or communications subject to this subsection may be disseminated for law enforcement purposes if it is evidence that a crime has been, is being, or is about to be committed, provided that dissemination is made in accordance with section 106(b).

''(7) PROCEDURES FOR DETERMINATIONS AFTER ACQUISITION.—

''(A) IN GENERAL.—Not later than 120 days after the date of enactment of the FISA Amendments Act of 2008, the Attorney General, in consultation with the Director of National Intelligence, shall submit to the Foreign Intelligence Surveillance Court for approval procedures for determining, where reasonably practicable, whether a communication acquired under this title is to or from a person reasonably believed to be inside the United States.

''(B) REVIEW.—The Foreign Intelligence Surveillance Court shall approve the procedures submitted under subparagraph (A) if the procedures are reasonably designed to determine, where reasonably practicable, whether a communication acquired under this title is a communication to or from a person reasonably believed to be located in the United States.

''(C) PROCEDURES DO NOT MEET REQUIREMENTS.—If the Foreign Intelligence Surveillance Court concludes that the procedures submitted under subparagraph (A) do not meet the requirements of subparagraph (B), the Court shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subparagraph to the Foreign Intelligence Surveillance Court of Review.

''(D) USE OF PROCEDURES.—If the Foreign Intelligence Surveillance Court approves procedures under this paragraph, the Government shall use such procedures for any communication acquired under this title.

''(E) REVISIONS.—The Attorney General, in consultation with the Director of National Intelligence, may submit new or amended procedures to the Foreign Intelligence Surveillance Court for review under this paragraph.

''(F) RELIABILITY.—If the Government obtains new information relating to the reliability of procedures approved under this paragraph or the availability of more reliable procedures, the Attorney General shall submit to the Foreign Intelligence Surveillance Court such information.

''(c) TITLE I COURT ORDER.—If the Government obtains a court order under title I relating to a target of an acquisition under this title, the Government may access and disseminate, under the terms of that court order and any applicable minimization requirements, any communications of that target that have been acquired and segregated or specifically designated under subsection (b)(1).

''(d) INSPECTOR GENERAL AUDIT.—

''(1) AUDIT.—Not less than once each year, the Inspector General of the Department of Defense and the Inspector General of the Department of Justice shall complete an audit of the implementation of and compliance with this section. For purposes of such audit, the Inspectors General shall have access to any communications that have been segregated or specifically designated under subsection (b)(1) and any information the use of which has been limited under subsection (b)(5). Such audit shall include an accounting of such segregated or specifically designated communications that have been disseminated.

''(2) REPORT.—Not later than 30 days after the completion of each audit under paragraph (1), the Inspectors General shall jointly submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report containing the results of the audit.

''(3) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by an Inspector General or any appropriate staff of an Inspector General for a security clearance necessary for the conduct of the audits under this subsection is conducted as expeditiously as possible.

''(e) APPLICABILITY.—Subsections (a) and (b) shall apply to any communication acquired under this title on or after the earlier of—

''(1) the date that the Foreign Intelligence Surveillance Court approves the procedures described in subsection (a)(3) and the procedures described in subsection (b)(7); and

''(2) 1 year after the date of enactment of the FISA Amendments Act of 2008.''.

APPOINTMENT OF CONFEREES—H.R. 2419

The PRESIDING OFFICER. Under the authority of the order of December 14, 2007, the chair appoints the following conferees on the part of the Senate to H.R. 2419: Mr. HARKIN, Mr. LEAHY, Mr. CONRAD, Mr. BAUCUS, Mrs. LINCOLN, Ms. STABENOW, Mr. CHAMBLISS, Mr. LUGAR, Mr. COCHRAN, Mr. ROBERTS, and Mr. GRASSLEY conferees on the part of the Senate.

PRESERVATION OF EXISTING JUDGESHIPS

Mr. SANDERS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 556, S. 550.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 550) to preserve existing judgeships on the Superior Court of the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. SANDERS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The bill (S. 550) was ordered to a third reading, was read the third time, and passed, as follows:

S. 550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPOSITION OF SUPERIOR COURT.

Section 903 of title 11 of the District of Columbia Code is amended by striking ''fifty-eight'' and inserting ''61''.

PROVIDING FOR THE APPOINTMENT OF JOHN W. MCCARTER

Mr. SANDERS. I ask unanimous consent that the Rules Committee be discharged from further consideration of S.J. Res. 25 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 25) providing for the appointment of John W. McCarter as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DURBIN. Madam President, I rise to support the appointment of John W. McCarter, Jr., to serve on the Smithsonian Institution's Board of Regents.

The Board of Regents is vested with authorities typically given to boards of trustees of not-for-profit and educational institutions throughout the United States. The Board considers a variety of issues related to the Smithsonian Institution, including budgets, planning documents, proposed programs and construction, appointments to Smithsonian advisory boards, and legislative initiatives. Given the variety and importance of the Board's responsibilities in managing the tone of America's most cherished cultural institutions, members of the Board of Regents serve a critical leadership role for the Smithsonian Institution.

That is why I am pleased to support John McCarter's appointment. He currently serves as president and chief executive officer of the Field Museum, one of the greatest cultural attractions in Chicago. The Field Museum attracts over 1 million visitors each year. The museum was originally founded to house the biological and anthropological collections assembled for the World's Columbian Exposition of 1893. The original collection has been expanded to include some 20 million specimens, due in part to its continued worldwide expeditions and associated research.

Under John McCarter's leadership, the Field Museum has undertaken a series of projects to rebuild and restore the museum. Research activities have expanded along with the physical structure—the Field Museum is an international leader in evolutionary biology and paleontology in addition to archaeology and ethnography.

Before he joined the Field Museum in 1996, John McCarter was with Booz Allen & Hamilton as a senior vice president and was president of the DeKalb Corporation. He has also worked in government, serving as budget director for the State of Illinois in 1969 and as a White House Fellow during the LBJ administration.

John McCarter brought this diverse work experience to the not-for-profit museum he now leads. During his tenure at the Field Museum, John has created several new permanent and traveling exhibits, including the ''Evolving Plant'' exhibit in March 2006, the exhibit of Sue, the T. rex, in 2000, and the ''Tutankhamen and the Golden Age of the Pharaohs'' exhibit in 2006. These exhibits drew huge crowds to the Field Museum, expanding the reach of the museum's rich cultural experiences to new and diverse audiences. John's leadership has led to a new emphasis on developing museum exhibits that tell stories. This approach attracts more visitors and better educates those who are drawn in. The museum has also formalized its educational role in the community, establishing partnerships with science teachers in the community and organizing activities for inner-city schools.

It is my honor to support the appointment of John McCarter. His extensive experience in the government, private, and nonprofit sectors make him a great addition to the Smithsonian Institution's Board of Regents.

Mr. SANDERS. I ask unanimous consent that the joint resolution be read three times, passed, and the motion to reconsider be laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

The joint resolution (S.J. Res. 25) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 25

Resolved by the Senate and House, of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring because of the expiration of the term of Walter E. Massey of Georgia, is filled by the appointment of John W. McCarter of Illinois, for a term of 6 years, effective on the date of the enactment of this resolution.

CONGRATULATING THE NEW YORK GIANTS ON THEIR VICTORY IN SUPER BOWL XLII

Mr. SANDERS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 441, submitted earlier today by Senator SCHUMER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 441) congratulating the New York Giants on their victory in Super Bowl XLII.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Madam President, I have asked for time because I rise to speak about something that happened in Arizona yesterday.

I rise to congratulate the New York Giants on their much deserved Super Bowl victory last night, which very few thought would happen. But we Giants always knew we could prevail; we just couldn't pick the circumstances.

Mr. President, I will also be offering on behalf of myself, my colleague from New York, Senator CLINTON, and my two colleagues from our neighboring State of New Jersey, in which the Giants stadium is located, Mr. LAUTENBERG and Mr. MENENDEZ, this resolution.

The Big Blue, for the few of you who missed the game—I heard it had one of the biggest TV ratings we have had in a long time—the Big Blue defeated the heavily favored New England Patriots in what will go down as not only one of the greatest Super Bowl upsets in history but one of the most exciting and closely contested games in all of sports history.

Today, I am wearing the red, white, and blue. I usually enjoy wearing the red, white, and blue because I love America, but today I am particularly enjoying wearing those colors because I love the Giants.

Under enormous pressure, facing one of the most talented, methodical teams ever assembled, the Giants came from behind, battling back twice, to take that title.

Since the beginning of the season, the chattering class said the Patriots were an unstoppable force that would march untouched to a comfortable,

some even said ''large,'' Super Bowl victory, with the Giants a mere afterthought, a stepping stone on their road to greatness.

Well, the Giants proved them wrong again and today we are world champions. Now, I have been a Giant fan since I was 5 years old. I remember ''Chuckin'' Charlie Connerly and Sam Huff and Frank Gifford and Alex Webster. Back then the two most important Roosevelts to me were Brown and Grier.

The Giants have won Super Bowls before. But this victory, coming from behind and defying the odds, makes this win to Giants' fans the sweetest of all.

The Giants showed the grit and determination New York is known for. They would not be denied at any point in the game, keeping the pressure on through all four quarters. Throughout the game, the Giants excelled on both sides of the ball. I am particularly amazed and impressed with that Giant defense. The Patriots have one of the best offenses in football ever, certainly the best this year. But the Giant front—Michael Strahan, Osi Umenyora, Justin Tuck—stifled them. They put the pressure on Tom Brady so he actually missed passes. That did not happen very much, and the usually unflappable quarterback was back on his heels for most of the game.

And then the Giant offense. The doubters of Eli Manning were silenced for good—Two touchdown passes, that game-winning drive at the end, where no one thought the Giants could do it. And what a catch by David Tyree. He used his helmet, his face mask, his shoulder pads, and his chest gear to catch that ball and pave the way for that final touchdown.

Tom Coughlin, though bruising at times, kept the team together and focused, proving yet again that it ain't over until it is over. The hard-fought win sent shockwaves through the football establishment and sent New Yorkers cheering into the streets until the wee hours of the evening.

New Yorkers certainly deserve every minute of sweet celebration, and we look forward to that great tickertape parade I hope I will be able to go to if the voting schedule works out.

I spoke to Commissioner Goddell today and congratulated him on an exciting Super Bowl. It was not only a great day for New York football but a great day for football in general.

Just a note. Two members of the Giant family were lost in recent years: Wellington Mara, the heart and soul of a team if there ever was one, and Bob Tisch, a good friend of mine. And their steadfastness led to this success. I am sure they are looking down from heaven and smiling.

So I, on behalf of all New Yorkers, and the Senate, or at least most of the Senate, congratulate the New York football Giants for winning Super Bowl XLII and celebrating their extraordinary victory. I would like to send congratulations to my New York colleague, Senator CLINTON, who, of course, is on the campaign trail today. But I know she was thrilled about the victory, as were my colleagues from New Jersey, Senators LAUTENBERG and MENENDEZ.

Mr. LAUTENBERG. Madam President, I thank the Senator from Arizona, Mr. KYL, for his statement about the Super Bowl game that was played yesterday, and his congratulations to the Giants. And notice, I did not say the New York Giants, though that is the name, and we are as proud of that team as we in New Jersey could be.

But pride in my birthplace, my home all my life, the State I am privileged to serve in the Senate, forces me to remind everyone that though we treasure our neighbors' interests in New York, the Giants' home is in New Jersey, many of the players live in New Jersey, the home games are played in New Jersey, and there cannot be any doubt about the fan loyalty and the attendance of our proud New Jersey residents.

But to take nothing away from that smashing victory—that wonderful game, by the way, that was said by everyone I have met and talked to—even though our pride, our hopes were with the Giants, the fact is, it was a wonderful football game, and we cannot take away the greatness also of the New England Patriots football team.

After a tremendous season, a remarkable run through the playoffs, and a miraculous achievement against the AFC's best—the New England Patriots—our Giants are now the Super Bowl champions for the third time in history.

Last night, the Giants did what those of us in New Jersey and across the country believed they could do: They took the crown from the king. To capture the crown, they made key plays under pressure. The game started with a field goal, but the Patriots came right back and held the lead for much of the game. But with 2 minutes left, and their backs against the wall, the Giants came from behind to score the winning touchdown. The team showed guts and strength and courage, as they had throughout the season and through the playoffs. Last night, we saw them at their best. By winning the Super Bowl, our Giants are truly nominated to be the best team in the NFL, and they brought the Super Bowl trophy right back to its rightful place in New Jersey. From their home turf in East Rutherford, NJ, to the Super Bowl win in Arizona—and it was a wonderful setting and an outstanding opportunity to display our Giant greatness—the Giants stood tall and showed that against all odds they were champions.

What a pleasure it was to see the quarterback, Eli Manning, show his championship colors by hanging on as the Patriot defense came after him time and time again. What a wonderful family place that is to have two sons who are such expert football players. But Eli finally was able to come out of the shadow and take his place alongside his brother's great play.

David Tyree, a New Jersey native, scored the first touchdown and had an incredible catch with barely a minute left in play, falling back and pinning the ball tight against his helmet as he fell to the ground. He was holding onto that ball, and nothing could pull it from his arms.

Plaxico Burress caught the game-winning touchdown.

The offensive line, anchored by Rutgers University alumnus and New Jersey resident Shaun O'Hara, showed the way.

And don't forget, they say that defense wins championships. We saw a lot of that yesterday. The defensive line, led by Michael Strahan, also a New Jersey resident, stopped the record-setting Patriot offense in its tracks. It was no minor accomplishment.

In fact, our defense allowed only 14 points against a team that averaged more than 36 points a game during the regular season—an incredible accomplishment.

The Giants ran and passed, and they sacked their way to a championship and into the record books. The Giants have long had a place in the hearts and minds of New Jerseyans.

While the team does bear the New York name, their home has been in New Jersey for more than 30 years. Right now, one can see—if you pass the area where the Meadowlands in New Jersey is—they are building a brandnew stadium to keep them playing and winning in New Jersey for many years to come.

From Rutgers University to the Giants and the Jets, we have a proud and deep tradition of winning football in the Garden State. I am so proud the tradition lives on.

I congratulate the Mara and Tisch families, Tom Coughlin, the rest of the coaching staff, and the entire Giants team for an incredible Super Bowl victory. Giant fans cannot wait to bring the trophy back home.

On behalf of all New Jerseyans and our fans across the country, I am pleased—so pleased—to be able to call our Giants ''champions.''

The play that was displayed was magnetic, was fascinating. It will go down as one of the great Super Bowl games in history.

So we note, once again, just a reminder: Do not always call them the New York Giants. Just say Giants. That is enough. While we are under full cover of our pride and our allegiance, we call them the ''Jersey Giants.''

Mr. SANDERS. Madam President, even though I supported the New England Patriots, I will not object.

I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 441) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 441

Whereas, on Sunday, February 3, 2008, the New York Giants defeated the New England Patriots by a score of 17-14 to win Super Bowl XLII;

Whereas the Giants, who were double-digit underdogs, overcame overwhelming odds to defeat the Patriots;

Whereas Giants owners John K. Mara and Steve Tisch have built the Giants organization into a championship caliber team;

Whereas Eli Manning, having led a game-winning drive for 83 yards at the end of the fourth quarter, was named the game's Most Valuable Player;

Whereas David Tyree's game-breaking catch will forever go down in Super Bowl history as one of the greatest plays ever;

Whereas the relentless onslaught of the Giants defensive line, highlighted by spectacular plays by Justin Tuck, Osi Umenyiora, and team Captain Michael Strahan, sacked Patriots quarterback Tom Brady 5 times;

Whereas the Giants capped off an amazing playoff run by winning all 4 playoff games on the road as underdogs;

Whereas Giants head coach Tom Coughlin, in his first appearance in the Super Bowl, lead his team to victory from the wild card spot;

Whereas this marks the third time in franchise history that the Giants have won the Super Bowl;

Whereas the Giants attract fans from New York, New Jersey, and Connecticut to their home games in East Rutherford, New Jersey, and to away games across the country; and

Whereas Giants fans from across the tri-state region have rallied together to cheer the Giants for coming from behind to win in the biggest upset in Super Bowl history: Now, therefore, be it

Resolved, That the Senate congratulates the New York Giants on their victory in Super Bowl XLII.

COMMEMORATING THE LIFE OF A. LEON HIGGINBOTHAM, JR.

Mr. SANDERS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 442, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 442) commemorating the life of A. Leon Higginbotham, Jr.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANDERS. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

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

The resolution (S. Res. 442) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 442

Whereas the late A. Leon Higginbotham, Jr., dedicated his life to eliminating racial barriers in the society of the United States;

Whereas, having grown up during the Great Depression and the era of Jim Crow laws, A. Leon Higginbotham, Jr., overcame a childhood marked by economic hardship and segregation;

Whereas, having personally experienced the effects of racism, A. Leon Higginbotham, Jr., sought an education and career in law during which he fought institutionalized racism in the United States judicial system;

Whereas A. Leon Higginbotham, Jr., began his legal career as a law clerk to Justice Curtis Bok of the Superior Court of Pennsylvania and soon became the youngest and first African-American Assistant District Attorney in the city of Philadelphia;

Whereas, in 1954, when African Americans were largely excluded from professional opportunities, A. Leon Higginbotham, Jr., became a founding member of Norris, Schmidt, Green, Harris, & Higginbotham, the first African-American law firm in Philadelphia;

Whereas, while still in private practice, A. Leon Higginbotham, Jr., served as Special Deputy Attorney General for the Commonwealth of Pennsylvania, Special Hearing Officer in the Department of Justice, President of the Philadelphia chapter of the National Association for the Advancement of Colored People, a member of the Executive Board of the Governor's Committee of One Hundred for Better Education, Commissioner of the Pennsylvania Fair Employment Practices Commission, Commissioner of the Pennsylvania Human Rights Commission, and a member of the board of directors for various legal, political, and nonprofit organizations within Pennsylvania;

Whereas, having been appointed by President John Fitzgerald Kennedy to the Federal Trade Commission in 1962, A. Leon Higginbotham, Jr., became not only the first African American to serve on a Federal regulatory commission but also the youngest person to be named as a Commissioner of the Federal Trade Commission;

Whereas, having recognized A. Leon Higginbotham, Jr.'s gifts as both a lawyer and a public servant, both President Kennedy and President Lyndon Baines Johnson nominated A. Leon Higginbotham, Jr., as a Federal judge on the United States District Court for the Eastern District of Pennsylvania;

Whereas, upon confirmation as a Federal judge at the age of 35, A. Leon Higginbotham, Jr., became the youngest person appointed to the United States District Court for the Eastern District of Pennsylvania and one of the youngest ever appointed to a Federal bench;

Whereas, in his role as a Federal judge, A. Leon Higginbotham, Jr., served as a mentor to numerous young attorneys, affording them the opportunity to gain critical exposure to the legal profession;

Whereas A. Leon Higginbotham, Jr., played an extraordinary role in the civil rights movement as an advisor to President Johnson after the tragic assassination of Dr. Martin Luther King, Jr., and as a member of the National Commission on Causes and Prevention of Violence;

Whereas, as the first African-American member of the Yale University Board of Trustees, A. Leon Higginbotham, Jr., successfully fought to allow women to enroll as undergraduates in Yale College;

Whereas, in 1977, President Jimmy Carter acknowledged A. Leon Higginbotham Jr.'s work as both a judge and a scholar and appointed him to the United States Court of Appeals for the Third Circuit;

Whereas A. Leon Higginbotham, Jr,. sat on the Court of Appeals for 16 years and served as Chief Judge from 1989 until 1991 and as Senior Judge through the completion of his public career in 1993;

Whereas, through his rulings and subsequent writing, A. Leon Higginbotham, Jr., vigorously fought racial bias and prejudice;

Whereas, upon retirement from the bench, A. Leon Higginbotham, Jr., became the Public Service Jurisprudence Professor at Harvard University, dedicating the remainder of his life to educating and empowering future generations to continue the pursuit of equal justice under the law;

Whereas, A. Leon Higginbotham, Jr., served as the chairman of an American Bar Association panel that in 1993 issued the landmark report ''America's Children at Risk: A National Agenda for Legal Action'', studying the status of children in the society and legal system of the United States;

Whereas, in 1993, A. Leon Higginbotham, Jr., served as counsel to the law firm of Paul, Weiss, Rifkind, Wharton, & Garrison, where he litigated a host of pro bono matters, including voting rights in Louisiana, and advocated free elections in South Africa;

Whereas, A. Leon Higginbotham, Jr., brought his passion for equal justice into the international arena as a consultant to the President of South Africa, Nelson Mandela, on the formation of the Constitution of South Africa, and as an advocate for grass roots democracy education in South Africa;

Whereas, in 1995, A. Leon Higginbotham, Jr., continued his commitment to public service when appointed by President William Jefferson Clinton to the United States Commission on Civil Rights;

Whereas, as an author and contributor to more than 100 publications and academic works, A. Leon Higginbotham, Jr., left a legacy as a renowned scholar of racial and social justice issues in the United States;

Whereas, A. Leon Higginbotham, Jr.'s critically acclaimed historical works, including ''In the Matter of Color: The Colonial Period'', published in 1978, and ''Shades of Freedom: Racial Politics and Presumptions in the American Legal Process'', published in 1996, continue to provide invaluable insight into the history of race relations in the United States;

Whereas, as a sought-after public speaker, after his retirement A. Leon Higginbotham, Jr., delivered more than 100 speeches annually to motivate the next generation of people in the United States to continue the fight for racial justice;

Whereas A. Leon Higginbotham, Jr., received numerous honors and awards during his lifetime, including the Presidential Medal of Freedom, the Raoul Wallenberg Humanitarian Award, the National Association for the Advancement of Colored People Spingarn Medal, the American Civil Liberties Union Medal, the Lifetime Achievement Award from the Philadelphia Bar Association, the Silver Gavel Award from the American Bar Association, America's Ten Outstanding Young Men of 1963 from the United States Junior Chamber of Commerce, and honorary degrees from more than 60 universities; and

Whereas A. Leon Higginbotham, Jr.'s work as an esteemed jurist, scholar, and public servant helped transform the Nation's perception of race: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the life of the late A. Leon Higginbotham, Jr.;

(2) salutes the lasting legacy of A. Leon Higginbotham, Jr.'s achievements; and

(3) encourages the continued pursuit of A. Leon Higginbotham, Jr.'s vision of eliminating racial prejudice from all aspects of our society.

ORDER FOR READING OF WASHINGTON'S FAREWELL ADDRESS

Mr. SANDERS. Madam President, I ask unanimous consent that notwithstanding the resolution of the Senate of January 24, 1901, the traditional reading of Washington's Farewell Address take place on Monday, February 25, 2008, at a time to be determined by the majority leader, in consultation with the Republican leader.

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

APPOINTMENT

The PRESIDING OFFICER. On behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified by the order of February 4, 2008, appoints the Senator from Arkansas (Mr. PRYOR) to read Washington's Farewell Address on Monday, February 25, 2008.

ORDERS FOR TUESDAY, FEBRUARY 5, 2008

Mr. SANDERS. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. tomorrow, Tuesday, February 5; and that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business for up to 60 minutes, with Senators permitted to speak therein for up to 10 minutes each and the time equally divided and controlled between the two leaders or their designees, with the Republicans in control of the first half and the majority in control of the final half; that following morning business, the Senate resume the motion to proceed to H.R. 5140, the economic stimulus; that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus luncheons; and that all time during any adjournment, recess or morning business count postcloture.

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

Mr. SANDERS. Madam President, it is the leader's intention to seek unanimous consent to resume consideration of the FISA legislation tomorrow and have votes on several of the remaining amendments to the bill. Therefore, Senators should be aware that rollcall votes will occur throughout the day.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SANDERS. Madam President, 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 8:49 p.m., adjourned until Tuesday, February 5, 2008, at 10 a.m.