Mr. STEVENS. Mr. President, I offer today two private relief bills to provide lawful permanent resident status to Nadezda Shestakova and her son, Ilya Shestakov.

The Shestakov family has lived and worked in Anchorage, Alaska for more than ten years. Nadezda has now returned to Russia, and Ilya is attending high school in Canada, in order to avoid further immigration problems, and to demonstrate that they intend to be good citizens who live within the letter of the law.

Nadezda’s husband, Michail, is a legal immigrant working for Aleut Enterprise Corporation (AEC), an Alaska native corporation, and their youngest son is a United States citizen. Both remain in Anchorage awaiting the reunification of the family.

During their time in Alaska, Michail has been an exemplary employee of the Aleut Corporation. As a matter of fact, it was the Aleut Corporation who first brought this issue to my attention, as they too support the Shestakov family in any way possible.

The children have excelled in school, and Nadezda has remained an at-home mother, pursuant to the terms of her original visa.

The Shestakov family’s problems began when they overstayed their visa due to an error by their attorney, who did not file the extension paperwork on their behalf, as required. These a highly compensated members of the Alaska community, and they should not be punished due to an error by their former attorney. I would like to see this family reunited in Alaska, so that they can continue to contribute positively to our community.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 349—CONDEMNING THE GOVERNMENT OF IRAN, IN NOVEMBER 2004, VIOLATING THE TERMS OF THE 2004 PARIS AGREEMENT, AND EXPRESSING SUPPORT FOR EFFORTS TO REFER IRAN TO THE UNITED NATIONS SECURITY COUNCIL, FOR ITS NONCOMPLIANCE WITH INTERNATIONAL ATOMIC ENERGY AGENCY OBLIGATIONS

Mr. SANTORUM (for himself and Mr. KYL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 349

Whereas the International Atomic Energy Agency (IAEA) reported in November 2003 that Iran had been developing an undeclared nuclear enrichment program for 18 years and had covertly imported nuclear material and equipment, carried out over 110 unreported experiments to produce uranium metal, separated plutonium, and concealed many other aspects of its nuclear facilities;

Whereas the Governments of the United Kingdom, France, and Germany entered into an agreement with Iran on Iran’s nuclear program (commonly known as the “Paris Agreement”), which was referred to the Committee on the Judiciary:

The Senate—

Resolved, That the Senate—

(1) condemns the decisions of the Government of Iran to remove United Nations seals from its uranium enrichment facilities and to resume nuclear research efforts;

(2) commends the Governments of Britain, France, and Germany for their efforts to secure the 2004 Paris Agreement, which resulted in the brief suspension in Iran of nuclear enrichment activities;

(3) supports the referral of Iran to the United Nations Security Council for violating the Paris Agreement; and

(4) condemns actions by the Government of Iran to develop, produce, or acquire nuclear weapons.

SENATE RESOLUTION 350—EXPRESSING THE SENSE OF THE SENATE THAT SENEAT JOIN RESOLUTION 23 (107TH CONGRESS), AS ADOPTED BY THE SENATE ON SEPTEMBER 14, 2001, AND SUBSEQUENTLY ENACTED AS THE AUTHORIZATION FOR USE OF MILITARY FORCE DOES NOT AUTHORIZE WARRANTLESS DOMESTIC SURVEILLANCE OF UNITED STATES CITIZENS

Mr. LEAHY (for himself and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 350

Whereas the Bill of Rights to the United States Constitution was ratified 214 years ago;

Whereas the Fourth Amendment to the United States Constitution guarantees to the people the right “to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures”;
Whereas the Fourth Amendment provides that courts shall issue “warrantes” to authorize searches and seizures, based upon probable cause;

Whereas the United States Supreme Court has consistently held for nearly 40 years that the monitoring and recording of private conversations constitutes a “search and seizure” in violation of the meaning of the Fourth Amendment;

Whereas Congress was concerned about the United States Government unconstitutionally spying on Americans in the 1960s and 1970s;

Whereas Congress enacted the Foreign Intelligence Surveillance Act of 1978, and specified provisions of the Federal criminal code (including those governing wiretaps for criminal investigations), as the “exclusive means by which domestic electronic surveillance may be conducted pursuant to law (18 U.S.C. 2511(2)(f));

Whereas the Foreign Intelligence Surveillance Act of 1978 establishes the Foreign Intelligence Surveillance Court (commonly referred to as the “FISA”), to provide a legal mechanism for the United States Government to engage in searches of Americans in connection with intelligence gathering and counterintelligence;

Whereas Congress expressly enacted the Foreign Intelligence Surveillance Act of 1978, and specified provisions of the Federal intelligence Surveillance Act of 1978 provides specific exceptions that allow the President to authorize warrantless electronic surveillance for foreign intelligence purposes (1) in emergency situations, provided an application for judicial approval from a FISA court is made within 72 hours; and (2) within 15 calendar days following a declaration of war by Congress;

Whereas the Foreign Intelligence Surveillance Act of 1978 makes criminal any electronic surveillance not authorized by statute;

Whereas the Foreign Intelligence Surveillance Act of 1978 has been amended over time by Congress since September 11, 2001, attacks on the United States;

Whereas President George W. Bush has confirmed that his administration engages in warrantless electronic surveillance of Americans inside the United States and that he has authorized such warrantless surveillance more than 30 times since September 11, 2001; and

Whereas Senate Joint Resolution 23 (107th Congress), as adopted by the Senate on September 14, 2001, and House Joint Resolution 64 (107th Congress), adopted by the House of Representatives on September 14, 2001, together enacted as the Authorization for Use of Military Force (Public Law 107–40), to authorize the use of force against those responsible for the attacks on September 11, 2001, do not contain legal authorization nor approval of domestic electronic surveillance, including electronic surveillance of United States citizens, without a judicially approved warrant: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Senate Joint Resolution 23 (107th Congress), as approved by the Senate on September 14, 2001, and subsequently enacted as the Authorization for Use of Military Force (Public Law 107–40), does not authorize warrantless domestic surveillance of United States citizens.

Mr. LEAHY. Mr. President, today I am submitting this resolution expressing the sense of the Senate that the Authorization for Use of Military Force, which Congress passed to authorize military action against those responsible for the attacks on September 11, 2001, did not authorize warrantless eavesdropping on American citizens.

As Justice O’Connor underscored recently, even war “is not a blank check for the President when it comes to the rights of the Nation’s citizens.”

Now that the illegal spying of Americans has become public and the President has acknowledged the 4-year-old Authorization for Use of Military Force, the lawyers are contending that Congress authorized it. The September 2001 Authorization to Use Military Force did not contain such a provision.

The New York Times reported that after September 11, 2001, when former Attorney General John Ashcroft loosened restrictions on the FBI to permit its use of Web sites, mosques, and other public entities, the FBI has used that authority to investigate not only groups with suspected ties to foreign terrorists, but also protest groups suspected of having links to violent or disruptive activities.

``FISA'', to provide a legal mechanism for intelligence gathering and counterintelligence; the Pentagon maintains secret databases containing information on a wide cross-section of ordinary Americans, and that the FBI is monitoring law-abiding citizens in the exercise of their First Amendment freedoms. When I worked with Senator Wyden and others in 2003 to stop Admiral Poinsett's Total Information Awareness program, an effort designed to datamine information on Americans—and we meant it. And when I added a reporting requirement on government's e-mail monitoring program, to the Department of Justice Authorization laws in 2002, we meant it. We demanded that Congress be kept informed and that any such program not proceed without congressional authorization.

First Amendment freedoms. When I remember the days immediately after the 9/11 attacks, I helped open the Senate to business the next day. I said then, on September 12, 2001: ‘‘If we abandon our democracy to battle them, they win... We will maintain our democracy, and with justice, we will use our strength. We will not lose our commitment to the rule of law, no matter how much the provocation, because that rule of law has served to preserve them should not be sacrificed to threats of terrorism or to the expanding power of the government. In the days immediately following those attacks, and I continue to believe, that the terrorists win if they frighten us into sacrificing our freedoms and what defines us as Americans. I well remember the days immediately after the 9/11 attacks. I helped open the Senate to business the next day. I said then, on September 12, 2001: ‘‘If we abandon our democracy to battle them, they win... We will maintain our democracy, and with justice, we will use our strength. We will not lose our commitment to the rule of law, no matter how much the provocation, because that rule of law has served to preserve them should not be sacrificed to threats of terrorism or to the expanding power of the government. In the days immediately following those attacks, and I continue to believe, that the terrorists win if they frighten us into sacrificing our freedoms and what defines us as Americans.

Just as we cannot allow ourselves to be lulled into a sense of false comfort when it comes to our national security, we cannot allow ourselves to be lulled into a blind trust regarding our freedoms and rights. The Framers built our democracy. It has made us what we are in history. We are a just and good Nation.

I joined with others, Republican and Democrats, and we engaged in round-the-clock efforts over the next months in connection with what came to be the USA PATRIOT Act. During those days the Bush administration never asked us for this surveillance authority or to amend the Foreign Intelligence Surveillance Act to accommodate such a program.

The United States Supreme Court has consistently held for nearly 40 years, since its landmark decision in Katz v. United States, that the monitoring and recording of private conversations constitutes a “search and seizure” within the meaning of the Fourth Amendment. Congress enacted the Foreign Intelligence Surveillance Act of 1978, FISA, to provide a legal mechanism for the government to engage in electronic surveillance of Americans in connection with intelligence gathering. The Foreign Intelligence Surveillance Act, along with
Spies on Americans without first obtaining the requisite warrants is illegal, unnecessary and wrong. No President can simply declare when he wishes to follow the law and when he chooses not to, especially when it comes to the hard-won rights of the American people.

The resolution I submit today is intended to help set the record straight. It is an important first step toward restoring checks and balances between the co-equal branches of government. I urge all Senators to adopt it.

Mr. KENNEDY. Mr. President, what is past is prologue. Today, we see history repeating itself. In 1978, President Carter signed into law the “Foreign Intelligence Surveillance Act,” successfully concluding years of debate on the power of the President to conduct national security wiretapping. As a result of lengthy hearings and consultation, Congress enacted that law with broad bipartisan support. Its purpose was to provide the executive the power to use electronic surveillance followed the rule of law. Since 1979, the special court has approved nearly 19,000 applications and denied only 4. Last year, the Administration reached an all-time-high with the number of applications granted.

The Foreign Intelligence Surveillance Act, Congress established the exclusive means by which electronic surveillance could be conducted in the United States for national security purposes. Two legal goals of the legislation was to ensure that information obtained from illegal wiretaps could not be used to obtain a warrant from the Foreign Intelligence Surveillance Court. We even made sure that there would be criminal penalties for anyone who failed to comply with these rules.

The PATRIOT Act did not give the President the authority to spy on anyone without impartial judicial review—and neither did the Joint Resolution. It is clear to put the use of force against those responsible for the attacks of September 11th.

The President seemed to agree. In 2004, in Buffalo he stated categorically that “any time that you hear the United States talking about a wiretap, it requires a court order.” He said that “Nothing had changed—when we’re talking about chasing down terrorists, we’re talking about getting a court order before we do so.”

Now, no President and the administration claim they do not have to comply with the law. Just yesterday, the administration again asserted its constitutional authority to eavesdrop on any person within the United States—without judicial or legislative oversight and it claims that the Congress implicitly granted such power in the Joint Resolution of 2001.

But that Joint Resolution says nothing about domestic surveillance. As Justice O’Connor has said, “A state of war is not a blank check for the president when it comes to the rights of the nation’s citizens.”

The bipartisan 9/11 Commission made clear that the Executive Branch has the burden of proving why a particular governmental power should be retained—and Congress has the responsibility to see that adequate guidelines and oversight are made available.

The Executive Branch has failed to meet the 9/11 Commissioners’ burden of proof. The American people are not convinced that these surveillance methods achieve the right balance between our national security and protection of our civil liberties.

These issues go to the heart of what it means to have a free society. If President Bush can make his own rules for domestic surveillance, Big Brother has run amok. If the President believes that winning the war on terrorism requires new surveillance capabilities, he has a responsibility to work with Congress to make appropriate changes in existing law. He is not above the law.

Congress and the American people deserve full and honest answers about the Administration’s domestic electronic surveillance activities. On December 22, 2005, I asked the President to provide us with answers before the Senate Judiciary Committee began hearings on Judge Alito’s nomination to the Supreme Court. We got no response. The Senate Judiciary Committee is scheduled to begin separate hearings on President Bush’s actions. Instead of providing us with the documents the Administration relied upon, the Justice Department continues to circulate summaries and white papers on the legal authorities it purports to have on the President’s actions. The bipartisan 9/11 Commission made clear that the Executive Branch has the burden of proving why a particular governmental power should be retained—and Congress has the responsibility to see that adequate guidelines and oversight are made available.

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or times of war, which is why we established a secret court to expedite the review of sensitive applications from the government.

Now, the administration has made a unilateral decision that Congressional and judicial oversight can be discarded, in spite of what the law obviously requires. We need a thorough investigation of these activities. Congress and the American people deserve answers, and they deserve answers now.

SENATE RESOLUTION 351—RESPONDING TO THE THREAT POSED BY IRAN’S NUCLEAR PROGRAM

Mr. BAYH submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 351

Whereas Iran is precipitating a grave nuclear crisis with the international community that directly impacts the national security of the United States and the efficacy of the International Atomic Energy Agency (IAEA) and the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, D.C., and Moscow July 1, 1968, and entered into force May 5, 1970 (commonly referred to as the “Nuclear Non-Proliferation Treaty”);

Whereas the United States welcomes a diplomatic solution to the nuclear crisis, but the Government of Iran continues to reject a peaceful resolution to the matter;

Whereas the United States continues to be concerned about the Government of Iran’s violations of the Additional Protocol on expansive, intrusive non-proliferation inspection regime on Iran similar to that imposed on Iraq after the 1991 Persian Gulf war;

Whereas the Board of Governors of the International Atomic Energy Agency (IAEA) declared in September 2005 that Iran “remained the most active state sponsor of terrorism in 2004”;

Whereas President of Iran Mahmoud Ahmadinejad issued anti-American and anti-Semitic statements, including denying the occurrence of the Holocaust and Israel’s right to exist, and called on people to “prepare for war” and invade the United States;

Whereas Iran’s recent acquisition of new anti-ship capabilities to block the Strait of Hormuz at the entrance to the Persian Gulf and the decision of the Government of Russia to sell the Government of Iran $1,000,000,000 in weapons, mostly for 29 anti-aircraft missile systems, is most regrettable and should dampen United States-Russian relations;

Whereas the behavior of the Government of Iran does not reflect that country’s rich history and the democratic aspirations of most people in Iran;

Whereas the people of the United States stand with the people of Iran in support of democracy, the rule of law, religious freedom, and regional and global stability;

Whereas, although Iran is subject to a range of unilateral sanctions and some third country and Government restrictions, these sanctions have not been fully implemented;

Whereas Iran remains vulnerable to international sanctions, especially with respect to financial services and foreign investment in its petroleum sector and oil sales, few foreign nations have joined the United States in attempting to isolate the regime in Iran and compel compliance with Iran’s international obligations;

Whereas, although Iran may be one of the world’s largest exporters of oil, it does not have the reserves to make the gasoline necessary to make its economy run and currently imports 40 percent of its refined gasoline from abroad;

Whereas moratorium on the complete implementation of United States sanctions laws and the adoption of additional statutes would improve the chances of a diplomatic solution to the nuclear crisis with Iran;

Whereas President George W. Bush has for 4 years given too little attention to the growing nuclear problem in Iran beyond rhetoric that has not been matched by action and has engaged in policies that have been riddled with contradiction and inconsistency and damaging to United States national security;

Whereas, had President Bush effectively marshaled world opinion in 2002 and not wasted valuable time, diverted resources, and ignored the problem in Iran, the United States would not have faced the full extent of the current nuclear crisis in Iran;

Whereas action now is imperative and time is of the essence; and

Whereas the opportunity the United States has to avoid the choice between military action and a nuclear Iran may be measured in only months: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should cut assistance to countries whose companies are investing in Iran’s energy sector, including pipelines to export Iranian gasoline from abroad;

(2) supplies of refined gasoline to Iran should be cut off;

(3) there should be a worldwide, comprehensive ban on sales of weapons to Iran, including from Russia and China;

(4) the United Nations Security Council should impose an intrusive IAEA-led weapons of mass destruction inspection regime on Iran similar to that imposed on Iraq after the 1991 Persian Gulf war;

(5) the United Nations Security Council should adopt reductions in diplomatic exchanges with Iran, limit travel by some Iranian officials, and limit or ban sports or cultural exchanges with Iran;

(6) the President should more faithfully implement the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) (commonly known as “ILSA”), and Congress should:

(A) increase the requirements on the President to justify waiving ILSA-related sanctions;

(B) repeal the sunset provision of ILSA;

(C) set a 90-day time limit for the President to determine whether an investment constitutes a violation of ILSA; and

(D) make exports to Iran of technology related to weapons of mass destruction sanctionable under ILSA;

(7) the United States should withdraw its support for Iran’s accession to the WTO until it was revealed in 2002; until it was revealed in 2002;

(8) the United States must make the Government of Iran understand that if its nuclear activity continues it will be treated as a pariah state.

SENATE CONCURRENT RESOLUTION 76—CONDONNING THE GOVERNMENT OF IRAN FOR ITS FLAGRANT VIOLATIONS OF ITS OBLIGATIONS UNDER THE NUCLEAR NON-PROLIFERATION TREATY, AND CALLING FOR CERTAIN ACTIONS IN RESPONSE TO SUCH VIOLATIONS

Mr. COLEMAN (for himself, Mr. SCHUMER, Mr. LATHURBEN, Mr. ALLEN, Mr. DEWINE, Mr. BROWNBACK, Mr. NELSON of Nebraska, Mr. NELSON of Florida, and Mrs. FEINSTEIN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 76

Whereas the Government of Iran has concealed a nuclear program from the International Atomic Energy Agency (IAEA) and the international community for nearly two decades until it was revealed in 2002;

Whereas the Government of Iran has repeatedly received U.S. and IAEA inspections and a variety of nuclear-related activities, including uranium enrichment and laboratory-scale separation of plutonium;

Whereas the Government of Iran recently removed IAEA inspectors from a uranium enrichment facility at Natanz and announced the resumption of “research” on nuclear fuel in a brazen affront to the international community;

Whereas members of the international community have agreed that the pursuit of Iran’s nuclear activities constitutes a “red line” for United Nations Security Council referral that has now unequivocally crossed by Iran;'