

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4040) to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

Mr. REID. Mr. President, I object to any further proceedings on this legislation at this time but alert everyone we are going to try to get to this legislation before this work period ends. We do have a few things to do. It seems the best laid plans sometimes have to be delayed because now we have the stimulus package we have to worry about completing. But this is something I want to do. Senator PRYOR and others have worked very hard. So we are going to move forward as quickly as we can.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

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

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARDIN).

INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will re-

sume consideration of S. 1200, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1200) to amend the Indian Health Care Improvement Act to revise and extend that Act.

Pending:

Bingaman/Thune amendment No. 3894 (to amendment No. 3899), to amend title XVIII of the Social Security Act to provide for a limitation on the charges for contract health services provided to Indians by Medicare providers.

Vitter amendment No. 3896 (to amendment No. 3899), to modify a section relating to limitation on use of funds appropriated to the Service.

Brownback amendment No. 3893 (to amendment No. 3899), to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

Dorgan amendment No. 3899, in the nature of a substitute.

Sanders amendment No. 3900 (to amendment No. 3899), to provide for payments under subsections (a) through (e) of section 2604 of the Low-Income Home Energy Assistance Act of 1981.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 7 minutes.

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

LABELING CLONED FOOD

Ms. MIKULSKI. Mr. President, I know the Indian health bill is very important. Senator DORGAN will be coming to the floor to lead the advocacy of its passage, which I support.

Mr. President, I come to the floor because I want to share some very disturbing news with you and all of my colleagues. Last week, the FDA gave the green light for cloned foods to enter our food supply.

The FDA announced food from cloned animals, or their progeny, is safe for human consumption. Despite pleas from thousands of Americans, and this Senator, to wait until there was more science, the FDA went ahead anyway.

Mr. President, I want to be clear. I am not opposed to cloning that follows strict scientific and ethical protocols. This Senator has always been on the side of science for the advancement of mankind. This Senator has always been on the side of the consumer and the consumers' right to know, right to be heard, and their right to be represented.

So today I come to the floor for a vigorous call to action that my legislation to label cloned food be passed as quickly as possible. This is a consumer alert today and a call for action.

My bill requires the Government to label any food that comes from a cloned animal or its progeny. Mr. President, my bill requires that the FDA and the Department of Agriculture put a label on this cloned food. The FDA handles milk products. We

say FDA should work on this issue. The Department of Agriculture regulates meat products. That, too, should be labeled.

My labeling bill would insist that cloned food be labeled at the wholesale level, the retail level, the restaurant level, the school lunch level, and the Meals on Wheels level.

My bill allows the American public to make an informed decision. People have a right to know what they are eating. This is necessary because the FDA and the Department of Agriculture have refused to put a label on cloned food. My legislation allows for consumer choice and also, at the same time, it would allow for monitoring of food as it comes into the food supply for postsurveillance to see if there are any negative consequences.

Americans find cloned food disturbing, and some even repulsive. Close to 80 percent of Americans have said they would not drink cloned milk. There is a "yuck" factor to this technology. Right now, under FDA and USDA provisions, there would be no way to tell if food comes from a cloned animal or its progeny. I want the public to be informed, so that is why my labeling bill is for their benefit.

The FDA has been most troubling to me. They made their decision despite two congressional directives—one in the omnibus bill and one in the farm bill. The omnibus bill, which the President signed on December 26, strongly encouraged FDA to hold off on a cloning decision before additional studies were done. On December 14, the Senate overwhelmingly passed the farm bill that would require the National Academy to peer-review FDA's decision.

Now, this was limited to 1 year. So I wasn't talking about a 20-year longitudinal study. I do want more science.

Second, I am concerned if we discover a problem with cloned food after it is in our food supply, and it is not labeled, we will not have any way of monitoring this. It is labeling that allows us to monitor.

The FDA has been very weak in post-marketing surveillance of drugs. Why would they be stronger on cloned food? Who will worry about the ethics? And where is the urgency? We are not facing a global shortage of beef and a global shortage of milk.

I know FDA's decision on the risk assessment is over 900 pages long. Mr. President, I have been skeptical of long reports. I have found that the longer the report, usually the more shallow the information.

My concerns are grave. I am for more science, and I have asked for it responsibly through the legislative process. I am going to continue to advocate for more studies on this issue. In the meantime, I want to protect the consumer and also allow scientists to monitor this new technology.

If America doesn't keep track of this from the beginning with labeling, our entire food supply could be contaminated. I am not opposed to cloning. I

am on the side of science, but let's label and monitor it.

The National Academy of Sciences suggested that we monitor this new technology because it is very new. They urged the Federal Government to use diligent postmarket surveillance mechanisms. That requires labeling.

Mr. President, last week, the EU decided that cloned foods were safe, but they also put up a big yellow flashing light. They referred it to their science and ethics and new technologies committee. They said there is no ethical justification to use cloned food. The EU called for more scientific study on cloned food, and they also said it should be labeled.

Denmark and Norway have already banned cloned food from their food supply. I am worried that they will start banning our exports if they are not labeled. My State depends on the export of food, whether it is seafood, chicken, or other products. We want to be able to export our food.

Mr. President, we are going down a track that I want to be sure is not irrevocable or irretrievable. The way to ensure safety in our food supply and consumer choice and the ability for science to continue is monitoring and labeling.

I stand here on behalf of the consumer to say, please, let's pass this labeling bill. It is needed, it is responsible, and it will be effective. I think it will save us a lot of "yuck" in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

U.S.S. "PUEBLO"—40TH ANNIVERSARY

Mr. ALLARD. Mr. President, I rise now, 40 years since the North Korean government unlawfully captured the lightly armed U.S.S. *Pueblo* while it was on a routine surveillance mission in international waters. The U.S.S. *Pueblo* was the first ship of the U.S. Navy to be hijacked on the high seas by a foreign military force in more than 150 years, and is currently the only commissioned U.S. naval vessel that is in the possession of a foreign nation. Forty years ago today, 83 crew members were kidnapped and 1 sailor was killed in the assault. Following the capture, our men were held in deplorable, inhumane conditions for more than 11 months before being released. While we were grateful to see the return of our brave sailors, 40 years later we are still waiting for the return of the U.S.S. *Pueblo*.

The U.S.S. *Pueblo* remains a commissioned naval ship and property of the U.S. Navy. Currently, the North Korean government flaunts the *Pueblo* as a war trophy and a tourist attraction in Pyongyang, North Korea's capital. We must not continue to remain silent about North Korea's continued viola-

tion of international law by possessing our ship, the U.S. Navy's ship. Each day tourists visit and tour the U.S.S. *Pueblo*, similar to the way visitors see retired naval ships in New York and San Diego. Americans in particular are encouraged to be photographed by the U.S.S. *Pueblo*. As recently as April 2007, it was reported that President Kim Jong Il stated that the *Pueblo* should be used for "anti-American education." North Korea's capture of the U.S.S. *Pueblo* is in blatant violation of international law and the further exploitation of the *Pueblo* is tasteless and disingenuous. I believe 40 years of relative silence on this issue is far too long, and it is important that the Senate take action and denounce the current situation.

The U.S.S. *Pueblo* bears the name of the town of Pueblo, CO, a city with a proud military tradition and is the only city to be home of four living Medal of Honor recipients simultaneously. In fact, in 1993 Congress deemed Pueblo the "Home of Heroes" for this unique distinction. Many in our State and all over the country want to see the vessel returned to its proper home. To this end, I am reintroducing a resolution seeking the return of the U.S.S. *Pueblo* to the U.S. Navy. This bill is cosponsored by my good friend and proud veteran, Senator DANIEL INOUE, and I encourage all of our colleagues on both sides of the aisle to support this legislation and see to it that the U.S.S. *Pueblo* is returned to the U.S. Navy.

Mr. President I ask unanimous consent to have printed in the RECORD an editorial that appeared in the Pueblo Chieftain today regarding the anniversary.

As that editorial says, "Mr. President, bring back the U.S.S. *Pueblo*."

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

[From the Pueblo Chieftain, Jan. 23, 2008]

INFAMY

Today marks the 40th anniversary of what for Pueblos is a day that shall live in infamy. On Jan. 23, 1968, naval and air forces of North Korea attacked and took hostage the USS *Pueblo* and its crew.

The *Pueblo* was a Navy intelligence ship operating in international waters. Despite that, the Stalinist regime in Pyongyang decided on a bold course of action and sent patrol boats and MiG fighters to harass the lightly armed U.S. vessel.

This was during the height of the Vietnam War, and the North Koreans correctly figured that American military brass weren't focused on the American spy ship's mission. They were right.

Armed only with one .50-caliber machine gun, the *Pueblo* crew tried to fend off the advancing Communist forces, to no avail. One crewman was killed while comrades tried to destroy as much equipment and paperwork as possible.

But the die was cast. The North Koreans boarded the *Pueblo* and took the rest of the crew hostage.

For the next 11 months, the crew was subjected to cruel and inhumane treatment at the hands of their captors. But the American spirit was not to be tamed.

During propaganda photo sessions, the Yanks dutifully smiled for the Koreans' cameras—and flashed "the bird," that one-finger salute that Americans know too well but was above the heads of the Communists.

But that did not last. When the Reds figured out what that sign of defiance meant, the men of the *Pueblo* were subjected to more severe beatings.

The man who took the worst of the pummeling was Cmdr. Lloyd Bucher, the *Pueblo*'s skipper. After each torture session, he'd crawl back to his cell—and surreptitiously give his comrades the high sign.

He, and his men, were not to be beaten.

It was exactly 11 months after the seizure when the North Koreans freed their American captives. They were allowed to walk one by one across the Demilitarized Zone separating North and South Korea.

While the *Pueblo* crew was free, their ship was and still is not. It is being held as a trophy of war in a river near Pyongyang—a tourist attraction and propaganda piece for the regime.

North Koreans have been forced at times to eat grass, so poorly is their economy run by central planners. But they have "bread and circuses" in the form of the American intelligence ship which bears this city's name.

Many attempts have been made to persuade the North Koreans to give the ship back to its rightful owners. When he was governor of California, Ronald Reagan urged Washington to bomb North Korea in order to force the ship's release.

Over the years since, numerous diplomatic moves have been tried. Recently, at the behest of Colorado's U.S. Sen. Wayne Allard, a Korean battle flag on display at the U.S. Naval Academy was returned to the Hermit Kingdom as a sign of this nation's goodwill.

That and all other overtures have thus far been fruitless. But this incident of four decades ago remains an ugly scar on the history of this nation, one which cannot be allowed to continue to fester.

We realize that with the War on Terrorism in Iraq, Afghanistan and elsewhere across the globe, there are other pressing international security issues. But if this nation were to show the world its resolve by getting the USS *Pueblo* back, by whatever means, we would show those who think they can bring us to our knees that we are not to be cowed.

Mr. President, bring back the USS *Pueblo*.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

THE ECONOMY

Mr. DORGAN. Mr. President, when I am completed talking about the economy, we will return to the Indian affairs business and debate the bill on the floor. If there are those who wish to offer amendments, I certainly hope we can bring them to the floor and debate them and vote on them.

As I mentioned, I would like to talk for a moment about the economy. There is the 24/7 news hour all across this country talking about what is happening: What on Earth is going on in this country's economy? What is happening in the stock market, which is moving up and down like a yo-yo—not so much up anymore but down substantially in recent weeks and months.

So what is happening? There are many pieces of evidence to suggest this economy is in very big trouble, including a substantial reduction in the stock market, an increase in unemployment, and a dramatic drop in housing starts. As a result of all of that,

there has been frenzied activity, both at the White House and in the Congress, to talk about something called a stimulus package. We need to do a fiscal stimulus package.

In fact, the President announced a stimulus package of \$145 billion to \$150 billion. That is a stimulus package of about 1 percent of our gross domestic product in this country.

Yesterday, the Federal Reserve Board took action in monetary policy to cut a key interest rate by 75 basis points. That was a significant and aggressive move by the Federal Reserve Board. This Congress and this President will want to make some aggressive moves with a stimulus package that are complementary to what has been done in monetary policy.

I make this point that is very important: If that is what we do, and all that we do, we fundamentally misunderstand what is wrong. I think most of the American people understand what is wrong. Certainly, most of the people around the world who look at this country understand we have gone off the track. If we don't fix our trade policy and fiscal policy, and if we don't fix things that need regulating that have largely been outside of the view of regulators, we are going to continue to be in very big trouble. Let me go through just a couple of these items.

We have the largest trade deficit in human history. Every single day, 7 days a week, we import \$2 billion more than we export. That means every single day we add another \$2 billion to the indebtedness of this country. That is over \$700 billion a year. We are hemorrhaging in red ink. We have to fix it. Warren Buffett, a remarkably successful investor in this country, said it quite clearly: This is unsustainable, this cannot continue.

The fact is, the President and the Congress act as if nothing is wrong. We have the most unbelievably inept trade policy in the history of humankind—\$2 billion a day we import more than we export. That means we are putting dollars that we pay for those goods in the hands of foreigners, and they are coming back to buy part of America. We are literally selling part of this country. But the fact is, you cannot hemorrhage in red ink like that for any great length of time without having significant consequences. It is what undermines your currency. It undermines confidence in your economy.

You add to that \$700 billion-plus a year trade deficit a fiscal policy that is reckless and ill-considered. It is as if we think people cannot see. It is like a drunk who thinks they are invisible. The fact is, we have an unbelievable fiscal policy deficit. They say: Well, it is \$200 billion, \$300 billion. Nonsense. Take a look at what we have to borrow for fiscal policy every year. The reason they show the lower deficit is because they are misusing the Social Security revenues. Take a look at the real deficit. It is likely to be over half a trillion dollars this year. You add that to

the trade deficit and then ask yourself, if you were looking from the outside into this country, do you think this is off track, the fundamentals are out of line? Do you think they have to be fixed? The answer is yes. We have very serious abiding problems. You add to that an unbelievably inept fiscal policy hemorrhaging in red ink and is way off track.

By the way, it is not just the normal budgetary Presidential requests and congressional actions on spending and taxing. The President, in the last year, sent to the Congress, in addition to outside-the-budget system, he said: I want you to appropriate money for me, \$196 billion—that, by the way, is \$16 billion a month, \$4 billion a week—and I don't want any of it paid for; I want it added to the debt because I want it for Iraq, Afghanistan, and other activities with respect to the war. That takes us to over two-thirds of a trillion dollars this President has asked for, none of it paid for. We will send our soldiers to war, but we will not do anything that requires any effort on our part to begin to pay for it. We will send soldiers to war and say: Come back and you pay for it later.

In addition to a fiscal policy that just does not work, we are now engaged in a war in which we borrow the money. Even as we borrow the money for the war, we have a President who says: I want more permanent tax cuts, mostly for the wealthy. It is not a secret. Everyone sees what is going on—everyone, apparently, except those in the White House and those in the Congress.

We have to fix the fundamentals, and if we do not, there isn't any amount of fiscal policy stimulus or any amount of activity by the Federal Reserve Board that is going to set this straight. It just is not.

You add to that inept trade policy and the hemorrhaging of red ink on fiscal policy that is reckless and out of control these issues: regulators who really do not care. They come to the body of regulatory responsibility bragging that they don't like government. What happens? We have what is called a subprime lending crisis. What does that mean? What it means is no one was watching and no one cared very much, and what we had was an orgy of greed with respect to an industry that is essential to this country—that is, providing loans so people can buy homes.

We had a bunch of highfliers decide: What we really want to do is to sell you a loan, and we want to put you in a new home. To do that, we will give you rates that you will not even believe. We will give you a home loan at a 2-percent interest rate—2 percent. We will quote the payment. That looks good, a 2-percent interest rate. What they don't tell you is the interest rate is going to reset in 3 years, it is going to reset way up, and then you will not be able to make the payments, or they do not tell you there also is an escrow

you have to pay every month on top of that.

Here is what was going on. This was an advertisement on television:

Do you have bad credit? Do you have trouble getting a loan? You've been missing payments on your home loan? Filed for bankruptcy? Doesn't matter. Come to us. We've got financing available for you.

We have all heard these ads and probably scratched our heads and wondered: How on Earth can this happen? The fact is, it can.

I will give an example. The biggest mortgage lender is Countrywide, which now is being purchased by Bank of America, apparently. The CEO of Countrywide, Mr. Mozilo, made off now with hundreds of millions of dollars. They had brokers cold-calling people saying: We want to put you in a subprime loan. Then they sold these subprime loans. They packaged these subprime loans with other good loans. They were enticing people into these loans at teaser interest rates that were going to reset in ways people could not afford to pay. Then they decided, just as in the old days when the discussion was about meat-packing plants and they put sausage and sawdust together—when you make sausage, you need a filler. So they put sawdust in sausage. These companies that were hawking these loans decided to put good loans with bad loans, subprime with other loans, and then mix them all up like a big-old sausage, and they would slice them up, securitize them, and sell them.

Who wanted to buy them? The rating agencies were sitting there dead from the neck up. This looks OK. We don't understand it, but it looks good to us. Hedge funds were saying: I like these new pieces of financial sausage because they are sliced up in a way that has a big yield. Why a big yield? Because they had prepayment penalties for the loans, loans that would reset to much higher interest rates that people couldn't make. This new piece of financial sausage shows a very high yield. So the hedge funds, liking high yields and liking big money, are buying all these securitized loans, and then all of a sudden, it goes belly up. And we wonder why. It is because people were advertising on television: You have bad credit? Have you filed for bankruptcy? Come to us; we want to give you a loan. Then they package this up in an irresponsible way.

One might ask the question: How could that all have happened? Weren't there some regulators around? No, no. The regulators were first ignoring them and then actually giving them a boost. Alan Greenspan now stands around scratching his head thinking: What on Earth happened? It happened on your watch, my friend. The Federal Reserve Board did nothing. In fact, part of this housing bubble that occurred was part of the air that comes from these unbelievable subprime loans that boosted that bubble. Again, Warren Buffett said: Every bubble will burst. And this one did. It shouldn't

have surprised us. But regulators sat by and said: That doesn't matter.

Did anybody care about those brokers placing a \$1 million jumbo subprime loan, making a \$30,000 commission on that loan? Did anybody say: Wait a second, what you are doing is misleading the folks who are going to borrow the money; you can't do that. Did anybody say to the rating agencies: You can't be rating as top-grade securities this sausage with sawdust, these financial instruments that have stuck together bad loans with good loans; you can't do that. Did anybody say to the hedge funds: You are buying a pig in a poke here; you are buying something you think is high yield, but you know better than that. What happened was all of this went out over the transom, and nobody even knows where it is or how much it is. Now they can't untangle it to find out where all these subprime loans exist. Nobody knows.

The next time somebody talks about regulation, understand, sometimes regulation is very important. The danger to this economy, as a result of the subprime scandal, is very significant. It is having consequences all across this country. You add this subprime scandal and its consequences to a fiscal policy that is reckless, to a trade policy that is inept, and then add this final factor: We have a circumstance where a gambler goes into a casino in Las Vegas and, in most cases, the sum total of what they will lose is the money they have carried into the casino—that is the risk of loss.

Here is the other fact about what is happening in our economy that nobody wants to talk about. We have hedge funds—yes, they are called hedge funds, mostly unregulated—to the tune of about \$1.2 trillion. Some would say that is not so much, \$1.2 trillion. There is \$9 trillion of mutual funds. There is something like \$40 trillion of the total aggregate value of stocks and bonds. So \$1.2 trillion in hedge funds, that is not so much, except one-half of all the trading on the New York Stock Exchange is done by those hedge funds. And those hedge funds have created, among other things, derivatives. There was something like a notional value of \$26 trillion in credit default swaps at the end of 2006.

It sounds very much like a foreign language when I say it, but the product everyone is worried about at the moment is something called credit default swaps, trillions of dollars of credit default derivatives—fancy financial instruments, much fancier than sausage with sawdust but in many ways the same thing. The interesting thing about these hedge funds is the dramatic amounts of borrowing, so they are not going to lose just what they go into the casino with in their pocket money. They are so heavily leveraged and so deep in credit default swaps that this could have significant consequences for our economy.

I and others have spoken on this floor for several years about the need

for regulation of hedge funds. I have spoken on this floor many times about the issue of derivatives and the total aggregate notional value of derivatives and its potential consequence to the economy in a downturn.

A friend told me there is a saying on Wall Street that you will never know who is swimming naked until the tide goes out, and then it might not be very attractive. When the tide goes out with respect to this economy's difficulties and we evaluate who in the hedge funds, in the investment banks, who in all of these enterprises is left who cannot pay the bills because they were so unbelievably leveraged in financial interests most Americans have never heard of, credit default swaps, what are the consequences to our country's economy?

If this does not sober up our Government on trade policy and fiscal policy and regulatory requirements with respect to hedge funds and derivatives, then nothing will. If this does not alert all of us that we are no longer operating behind a screen somehow—the world sees what is happening when there is a subprime loan scandal, the world understands it, and its consequences are felt all across this country and all across the globe.

I understand we are going to do something called a stimulus package. We have a roughly \$13 trillion-plus economy. We are going to do a stimulus package probably of \$140 billion, \$150 billion—1 percent of our economy. I understand the Federal Reserve has taken substantial action, 75 basis points yesterday. That is a big deal for the Fed, and I understand why. It is to try to calm the nerves and say this country stands behind its economy, and we should. I believe in this country's economy. This engine of opportunity and engine of growth is unusual in the world. On this planet, we circle the Sun, and there are about 6.4 billion neighbors, half who live on less than \$2 a day and half who have never made a telephone call, and we have the opportunity to live in this country. This is a wonderful place. We have built something unusual on this planet, but we have run into difficulty. No one seems to want to admit it, and we have to fix the fundamentals. Yes, we can do stimulative packages, but if we don't fix the fundamentals, we will not solve the problems for the future, we will not expand opportunity for the future.

There is so much to say and so much to be concerned about, but there is so much hope for the future if—if—we understand that a stimulus package is not our only responsibility. We have to fix trade and fiscal policy, and regulatory responsibility. We need to begin regulating hedge funds and be concerned about the notional value of derivatives. If we do not start doing that, we are not going to fix this issue, and we are not going to have a better future.

I feel very strongly, if we do what is right, that we can provide substantial

opportunity for this country, but the right things will include much more than a stimulus package.

Mr. President, I would like, in concluding my portion of morning business, I would like to talk about the underlying bill on the floor of the Senate, that is the Indian Health Care Improvement Act.

I spoke yesterday at some length, but I wish to again talk a little bit about why we are here and what all this means because I think it is so important. Some might say: Well, why is there an Indian Health Care Improvement Act? Why not a Norwegian or a Lutheran Health Care Improvement Act?

The Indian Health Care Improvement Act is designed that way, with that name, for a very specific reason. This country, for a long period of time, told American Indians: Look, we are going to take your land, we are going to force you to a reservation someplace, and we will write a treaty for you. Our treaty is going to tell you we are going to take care of your health care. We are going to meet our obligation. We have a trust responsibility for you.

So we will take your land, we will move you off to reservations, but, trust us, we are going to provide for your health care because that is our trust responsibility. Chief Joseph from the Nez Perce Tribe said:

Good words do not last unless they amount to something. Words do not pay for dead people. Good words cannot give me back my children. Good words will not give my people good health and stop them from dying.

He was concerned long ago about the inability of this country to keep its word on these trust responsibilities. We are here today because, finally, back in the early 1970s, President Nixon, President Ford, and every President succeeding them understood we have a trust responsibility for Indian health care. That is a fact.

In 1970, President Nixon noted we had 30 licensed Native American physicians in all our country. Thirty. And we created back then a self-determination policy. In 1976, President Ford signed into law the Indian Health Care Improvement Act. That is what we discuss today on the floor of the Senate.

I spoke yesterday, and I wish to again briefly about the challenge. I have held a lot of listening sessions on Indian reservations, and, frankly, the challenges we face are daunting.

Indian reservations see unbelievable health challenges. On a good many reservations, you will find one-half of the adult population who are suffering from diabetes. On the northern Great Plains, the rate of death from suicide among teenagers on Indian reservations is not double or triple, not 5 times the national average, but 10 times the national average of teen suicide.

I have held hearings about that. I have sat down with Indian teenagers on an Indian reservation, no other adults present, to say: What is going on in

your lives? What is happening? What is causing those clusters of suicides? There are so many problems of diabetes and suicide and so many other issues on reservations, dealing with health care. Part of it is because this system is so dramatically underfunded.

I wish to mention Ardel Hale Baker. Ardel Hale Baker is a woman on an Indian reservation who allowed me to use her photograph. Ardel Hale Baker was having a heart attack, diagnosed as a heart attack at a clinic. She didn't want them to call an ambulance. The nearest hospital was an hour and a half, hour and three-quarters away. She was lucky she got to the clinic when it was opened because the clinic, I believe, is open from 9 o'clock until 5 o'clock or 4 o'clock, with an hour closed for lunch hour. It is not open on weekends, but that is the health care on that reservation.

But she went there when the clinic was open. She was diagnosed as having a heart attack. She did not want them to call an ambulance because she knew that if the ambulance was not paid for by the Indian Health Service, she did not have any money and it would ruin her credit, because they would come after her.

So they said: No matter what you want, you are getting an ambulance. They put her in an ambulance, drove her about an hour and three-quarters to the nearest hospital. As they unloaded this woman from the ambulance gurney to a hospital gurney to pull her into the emergency room, they discovered a piece of paper attached to her thigh with a piece of tape.

I want to show you the paper that was attached to the thigh of Ardel Hale Baker as she was being wheeled into a hospital with a diagnosis of a heart attack. This is from the U.S. Department of Health and Human Services. It is a letter attached to this woman's leg with masking tape. It says on the letter that: You should understand that you have received outpatient medical services from your doctor at so and so. And this letter is to inform you that your priority one care cannot be paid for at this time, due to funding issues.

What they were saying is, as they wheeled this Indian woman into the emergency room, they were saying to the hospital: Understand this. That whatever care you give her is not going to be paid for, because we are out of contract health care funds.

On that reservation, everyone knows the refrain: Do not get sick after June because they are out of contract health care funds. What does this do? Well, if they treat this woman, then they have a bill that they go after this woman on. She does not have the ability to pay it. So it ruins her credit rating quickly, just like that. I cannot tell you the number of adults I have run into on these reservations who have had their credit ratings ruined because contract health care would not pay for health care.

They did not have the money. They were treated anyway, but then it ru-

ined their credit rating. This is an example of what is happening over and over. It is happening today, on Wednesday.

Yesterday, I spoke about a beautiful young woman named Ta'shon Rain Littlelight. I was on the Crow Reservation in Montana. And Ta'shon Rain Littlelight's grandmother stood up at a meeting on health care. And this little 5-year-old girl, with the bright eyes and the beautiful traditional dress, loved to dance at age 5. And she apparently was a good dancer.

Ta'shon Rain Littlelight is dead. She lived the last 3 months of her life in unmedicated pain. This little girl was taken again and again and again and again to the Indian health clinic. And she was treated for depression. Depression.

At one of the visits, her grandparents said: Well, she has a bulbous condition on her toes and her fingers which suggests maybe she is not getting oxygen or something else is wrong, can you check? Treated her for depression.

One day she was airlifted to Billings, MT, to the hospital. In arriving at the hospital in Billings, MT, she was very quickly then airlifted to the Children's Hospital in Denver, CO, and diagnosed with terminal cancer.

Now Ta'shon Rain Littlelight was a 5-year-old child. She would not have known the challenges of this issue of Indian health care. When diagnosed with a terminal illness, she told her mother what she wanted to do was to go see Cinderella's castle. And the Make-A-Wish Foundation folks made that happen.

A few weeks later, she was in Orlando, FL. The night before she was to see Cinderella's castle, in the hotel room, in her mother's arms, she died.

And Ta'shon Rain Littlelight told her mother that night before she died: Mommy, I will try to get better. Mommy, I am sorry I am sick.

This little girl lived in unmedicated pain with an undiagnosed illness for many months. Would that have happened in our families? Would it?

A woman goes to a doctor on an Indian reservation, with so much pain in her leg because her knee is bone-on-bone, unbelievable pain. And she is told: Wrap it in cabbage leaves for 4 days and it will be fine.

The doctor who subsequently treated her off the reservation said it was unbelievable. This is the woman who had a knee condition with such unbelievable pain that any of us or our families would immediately have wanted to have a new knee, a replacement. But she was told to wrap it in cabbage leaves for 4 days and it will be okay.

Now, if I sound angry about what is going on, I am. Because this country has a responsibility to do better. We have a responsibility for health care for two special groups of people. One, Federal prisoners whom we send, incarcerated, to Federal prisons because they have committed crimes. When they are in a Federal prison, it is our

responsibility for their health care, and we provide it.

We also have a responsibility because we promised and made a solemn trust oath to provide health care for American Indians. We even signed that into treaty after treaty. Now, all these years later, I find we are spending twice as much per person to provide health care for incarcerated Federal prisoners as we are to provide health care for American Indians.

That is why Ta'shon Rain Littlelight loses her life or at least does not have the kind of care and diagnosis we would expect for ourselves or our families or other Americans. That is why we have to fix it.

So having said all that I—I am sorry to go through it again—but I feel so strongly that this Congress has to take responsibility. Having said all that, there is much we can do. We have put together a piece of legislation that is 10 years too late. Ten years this Congress has delayed in reauthorizing this bill.

Finally, we are on the floor of the Senate to reauthorize this bill. This legislation is not perfect. It is a step forward, a step in the right direction. One of my colleagues will come and say: I demand reform. Well, he cannot demand it more than I demand it. But if you cannot get the first step done, how are you going to talk about reform 10 years after this should have been done?

I am looking for amendments that can be brought to the floor that can strengthen this. I am for those amendments. As soon as this passes, our committee is going to immediately begin a much broader reform of Indian health care.

But first and foremost, we have to move forward. We expand cancer diagnosis and treatments, we expand the opportunities for dialysis, we expand the opportunity for diabetes programs, we expand the opportunities to recruit doctors and nurses on Indian reservations. We do a lot of things in this bill that advance the interests of Indian health care.

It is not all I would like to do, but it is a significant step forward, that will improve the lives of people who today are not getting what was expected and what was promised by this country. This country has a responsibility to meet this, and I am determined, somehow, someday, we are going to meet it.

It appears, toward the end of this afternoon, the majority leader has indicated we have to go to the Foreign Intelligence Surveillance Act, because we have a February 1 deadline on that. We likely will not get this bill done by the end of this afternoon. We will then turn to FISA and work on FISA, I believe, perhaps today, tomorrow, perhaps Friday and Saturday, according to the majority leader.

But when the Foreign Intelligence Surveillance Act is completed, the majority leader told our caucus a bit ago, then we will pull this back on the floor and finish this piece of legislation.

So I ask my colleagues to come to the floor with amendments. Let us debate amendments, talk through amendments, improve this bill, if we can. But most importantly, let us get to the end, get it passed and have a conference with the House and, finally, after 10 long years, send this to the President for signature.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, we are attempting, with the two cloakrooms, to notify offices of Senators that we would like very much to find a way to get a list of the amendments that are intended to be offered.

So if there are Senators who have amendments to this bill they intend to offer, we hope they would notify their cloakrooms so we can put a list together. We would like to make some progress. I do know the Republicans have an issues conference this afternoon, or perhaps all day. But I know they are now at an issues conference, I believe at a location on Capitol Hill. So I expect this bill will be carried over.

But if we can have some amendments offered this afternoon, still we can debate these amendments, I would like to ask Senate offices if they have amendments, notify the cloakrooms so we can put them on a list and have some notion of what we need to do in order to get this bill completed.

My understanding is the Senator from Vermont wishes to speak in morning business.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to continue for what will be a relatively short while as in morning business.

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

FOREIGN INTELLIGENCE SURVEILLANCE

Mr. LEAHY. Mr. President, the Senator from North Dakota is absolutely right. Having managed a number of bills, I know that sometimes it is hard to get people with amendments to come forth. I hope they do. Once this bill is finished, we will go to the Foreign Intelligence Surveillance Act or, as we know it here, FISA. It is intended to protect both our national security and also the privacy and civil liberties of all Americans. We are considering amendments to that important act that will provide new flexibility to our intelligence community. We all support surveillance authority. With terrorists plotting against us and talking about it, we want to be able to use all the various electronic and other means to find out what they are saying. Unlike some in the administration

who say we are dealing with an antiquated law, we have updated this act many times, probably 30 or more times since its historic passage after intelligence abuses of earlier decades.

I came here 34 years ago. I well remember that this Nation was still reeling from the excesses of the COINTELPRO when people were being spied on by their Government simply because they disagreed with what the Government was doing; in this case, the war in Vietnam. We enacted FISA so we could do the legitimate thing of actually spying on people who wanted to do harm to the United States at the time of the Cold War, when we had adversaries all over the world. We also wanted to make sure that Americans who were minding their own business, not doing anything illegal, wouldn't be spied upon.

We rushed the so-called Protect America Act through the Senate just before the August recess and with it were a number of excesses. They came about because the administration broke agreements it had reached with congressional leaders. The bill was hurriedly passed under intense partisan pressure from the administration. In fact, the pressure was so strong, they made it very clear why they were willing to break agreements with those Republicans and Democrats who had been working together to try to craft a bill that would protect America's interests but also protect the privacy of individual Americans.

So we passed a bill that provides sweeping new powers to the Government to engage in surveillance, without a warrant, of international calls to and from the United States involving Americans, and it provided no meaningful protection for the privacy and civil liberties of the Americans who were on those calls. It could be an American calling a member of their family studying overseas. It could be a business person who, as they travel around to various companies they represent, ends up having their telephone calls intercepted.

But before that flawed bill passed—the one that came about because of the broken agreements by the administration—Senator ROCKEFELLER and I and several others in the House and Senate worked hard, in good faith with the administration, to craft legislation that solved an identified problem but, as I said, protected America's privacy and liberties.

Just before the August recess the administration decided instead to ram through its version of the Protect America Act with excessive grants of Government authority and without any accountability or checks and balances. They did this after 6 years of breaking the law through secret warrantless wiretapping programs. It was one of the most egregious things I have seen in my 34 years in the Senate. First they violate the law, and then instead of being held accountable, they ram through a law designed to allow them

to continue those actions. Some of us saw it for what it was and voted against it. Both Senators from Vermont voted against it. We are from a State that borders a foreign country. We are concerned about our security, but we are also concerned about our liberties and our privacy.

We did manage to include 6-month sunset in the Protect America Act so we would have a chance to revisit this matter and do it right. The Senate Judiciary Committee and the Intelligence Committee, as well as our House counterparts, have spent the past month considering changes. In the Senate Judiciary Committee we held open hearings. We had more briefings than I can even count and meetings with the administration, with people in the intelligence service, with people at the CIA, NSA, and others. We considered legislative language in a number of open business meetings where Senators from across the political spectrum could be heard. Then we reported a good bill to the Senate before Thanksgiving.

The bill we are now considering will 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' liberties. Attorney General Mukasey said at his nomination hearing that "protecting civil liberties, and people's confidence that those liberties are protected, is a part of protecting national security." Let me repeat what the new Attorney General said:

Protecting civil liberties, and people's confidence that those liberties are protected, is a part of protecting national security.

I agree with him. That is what the Judiciary Committee bill does. I commend the House of Representatives for passing a bill, the RESTORE Act, that takes a balanced approach to these issues and allows the intelligence community great flexibility to conduct surveillance of overseas targets but also provides oversight and protection for Americans' civil liberties. The Senate Select Committee on Intelligence has also worked hard. I know Chairman ROCKEFELLER was as disappointed as I at the administration's partisan maneuvering just before the August recess. After being here through six administrations, it has always been my experience, with Republican or Democratic administrations at certain points, when you are negotiating a key piece of legislation with the administration, you have to rely on them to keep their word and be honest with you, as they have to rely on you to keep your word and be honest with them. Through six administrations, 34 years, I can never remember a time where an administration was less truthful or flatly broke their word in the way this one did.

I commended the efforts of Senator ROCKEFELLER and those working with him. I do so again now. I believe both he and I want surveillance but we want

surveillance with oversight and accountability within the law. I also want to praise our joint members. In the Judiciary Committee we have, by practice, a certain number of members who serve on both Judiciary and Intelligence for obvious reasons. The ranking member of Judiciary and I, of course, have access to a great deal of intelligence whenever we have requested it, but that is on an ongoing basis.

Senators FEINSTEIN, FEINGOLD, and WHITEHOUSE contributed so much to the work of the Judiciary Committee. They worked with me to author many of the additional protections we adopted and reported. They had worked on the bill in the Intelligence Committee and then worked with us. These Senators and others on the Judiciary Committee worked hard to craft amendments that will preserve the basic structure and authority proposed in the bill reported by the Select Committee on Intelligence, but then they added those crucial protections for Americans, the part the Judiciary Committee, because of our oversight of courts, worries about.

I believe we need to do more than the bill initially reported by the Senate Select Committee on Intelligence does to protect the rights of Americans. I know the chairman of that committee joins with me to support many of the Judiciary Committee's improvements.

Let me cite briefly what they are. The Judiciary bill, for example, makes clear that the Government cannot claim authority to operate outside the law outside of FISA—by alluding to other legislative measures never intended to provide that authority.

I will give you an example of what happened. The House and the Senate passed an authorization for the use of military force. We did this right after September 11. It was authorization to go in and capture Osama bin Laden—the man who engineered 9/11, is still loose, and taunts us periodically. But what happened? The administration was so hellbent on getting into Iraq that when they had Osama bin Laden cornered, they withdrew their forces and let him get away so they could invade Iraq—a country that had absolutely nothing to do with 9/11. Now they say that authorization allowed them to wiretap Americans without a warrant. I have heard some strange, convoluted, cockamamie arguments before in my life. This one takes the cake.

I introduced a resolution on this in the last Congress when we first heard this canard. We authorized going after Osama bin Laden, but the Senate did not authorize—explicitly or implicitly—the warrantless wiretapping of Americans. By their logic, they could also say we authorized the warrantless search of the distinguished Presiding Officer's home or my home. This body did no such thing, but the administration still is clinging to their phony legal argument.

The Judiciary bill would prevent that dangerous contention with strong language that reaffirms that the Foreign Intelligence Surveillance Act is the exclusive means for conducting electronic surveillance for foreign intelligence purposes.

The Judiciary Committee's amendment would also provide a more meaningful role for the FISA court to oversee this new surveillance authority. The FISA court is a critical independent check on Government excess in the sensitive area of electronic surveillance. The administration claims that of course the Foreign Intelligence Surveillance court can look at what they are doing, they just don't want the court to be able to do anything about it. No. The Judiciary Committee says the court should be able to look at what they are doing and should be able to stop them if they are breaking the law. In this Nation we fought a revolution over 200 years ago to have that right.

With the authority of a majority of the Judiciary Committee members, I am going to offer a revised version of the Committee's amendment that makes some changes to address technical issues and also to address some of the claims the administration has made about our substitute.

For example, in response to concerns raised by the administration in its Statement of Administration Policy, we have revised the exclusivity provision to ensure that we are not overextending the scope of FISA. We have also revised the provision concerning stay of decisions of the FISA Court pending appeal, the provision clarifying that the bill does not permit bulk collection of communications into or out of the United States, and a few other provisions.

I believe these revisions make the Judiciary Committee's product even stronger, and I urge my colleagues to support it.

Now, in the bill we have a title I, a title II. Title II in the Intelligence bill talks about retroactive immunity. We do not address that in the Judiciary Committee's bill, but I do strongly oppose the bill reported by the Senate Select Committee on Intelligence in that area. Their bill would grant blanket retroactive immunity to telecommunications carriers for their warrantless surveillance activities from 2001 through earlier this year. This surveillance was contrary to FISA and violated the privacy rights of Americans.

The administration violated FISA for more than 5 years. They got caught. If they had not gotten caught, they probably would still be doing it. But when the public found out about the President's illegal surveillance of Americans, the administration and the telephone companies were sued by citizens who believe their privacy and their rights were violated.

Now the administration is trying to get this Congress to terminate those lawsuits. It is not that they are wor-

ried about the telephone companies. They are not as concerned about the telephone companies as they are about insulating themselves from accountability.

This is an administration that does not want us to ask them anything, and they do not want to tell us anything. Interesting policy. If you do ask them, they are not going to tell you. If they do tell you, it appears oftentimes they do not tell you the truth.

Now, the rule of law is fundamental to our system. It has helped us maintain the greatest democracy we have ever seen in our lifetimes. But in conducting warrantless surveillance, the administration showed flagrant disrespect for the rule of law. It is like the King of France, who once said: "L'Etat, c'est moi." "The state is me." They are saying: What we want to do is what we will do. And if we want to do it, the law is irrelevant.

I cannot accept that.

The administration relied on legal opinions that were prepared in secret and shown only to a tiny group of like-minded officials who made sure they got the advice they wanted—advice that, when it saw the light of day, people said: How could anybody possibly write a legal memorandum like that?

Jack Goldsmith, who came in briefly to head the Justice Department's Office of Legal Counsel, described the program as a "legal mess." He is a conservative Republican. He looked at this and said: It is a legal mess. Now, the administration does not want a court to get a chance to look at this legal mess. Retroactive immunity would assure that they get their wish and that nobody could ask how and why they broke the law.

Frankly, I do not believe anybody is above the law. I do not believe a President is, I do not believe a Senator is, I do not believe anybody is.

I do not believe that Congress can or should seek to take rights and legal claims from those already harmed. I support the efforts of Senators SPECTER and WHITEHOUSE to use the legal concept of substitution to place the Government in the shoes of the private defendants who acted at its behest and to let it assume full responsibility for the illegal conduct.

Although my preference, of course, is to allow the lawsuits to go forward as they are, I believe the substitution alternative is effective. It is far preferable to retroactive immunity, and it allows this country to find out what happened.

Keep in mind why we have FISA. Congress passed that law only after we discovered the abuses of J. Edgar Hoover's FBI. Through the COINTEL Program, Hoover spied on Americans who objected and spoke out against the war in Vietnam—which pretty well involved 100 percent of the Vermont delegation in Congress.

It is like the Department of Defense today that is going around videotaping Quakers protesting the war. Quakers

always protest the war. But this administration seems to think, if you disagree with them, somehow you are an enemy of the country and they can justify spying on you. That is why we put these laws in place. Is memory so short around here? Is memory so short or are we so frightened by 9/11 that we are willing to throw away everything this country fought for and everything that has made this country survive as long as it has?

We were told this building was targeted by terrorists. I proudly come into this building every day to go to work. It is the highlight of my life, other than my wife and my family. But I come in here because I believe 100 Members of the Senate can be the conscience of the Nation. We can protect Americans' rights, we can protect those things that our forefathers fought a revolution for, that we fought a civil war to protect, that we fought two World Wars to protect. Now we are going to throw it away because of a group of terrorists? This is "Alice in Wonderland."

So as we debate these issues, let's keep in mind the reason we have FISA in the first place. As I said, back in the 1970s we learned the painful lesson that powerful surveillance tools, without adequate oversight or the checks and balances of judicial review, lead to abuses of the rights of the American people.

So I hope this debate will provide us with an opportunity to show the American people what we stand for. We can show them that we will do all we can to secure their future, but at the same time protect their cherished rights and freedoms. Those are the rights and freedoms that protected past generations and allowed us to have a future. If we do not protect them, what will our children and grandchildren have?

It is incumbent upon us to stand up for this country. When you stand up for this country, it does not mean jingoism, it does not mean sloganeering. It means protecting what is best for this country. If we do that, the terrorists will not win. The United States of America wins. The people who rely on us around the world will win. Our example will be one they will want to follow.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

THE FISA BILL

Mrs. FEINSTEIN. Mr. President, I know that both chairmen, Senator

LEAHY of Judiciary and Senator ROCKEFELLER of Intelligence, are coming to the floor to speak on the FISA bill. I wish to take this opportunity, as a member of both those committees, to speak about two amendments I will offer when the time is appropriate. This is in morning business and, therefore, I cannot offer them at this time.

The first amendment will deal with a new question, and that question is: court review of telecom immunity. Let me explain what that means. First, this amendment is submitted on behalf of Senators BILL NELSON, CARDIN, and myself. Senator NELSON is on the Intelligence Committee. Senator CARDIN is on the Judiciary Committee. I have also worked with Senator WHITEHOUSE on this, though I believe he is going in a slightly different direction.

As Members know, the bill before us provides full retroactive immunity for electronic service providers—that is the legal language—that are alleged to have provided assistance as part of the Terrorist Surveillance Program. The amendment I am offering creates a judicial review by putting forth the issue of whether immunity should be granted before the FISA Court. There would be no immunity for any individual, private or public official—that is in the underlying bill—or any other company other than electronic service providers.

So the immunity provision in the Intelligence bill only relates to those providers of electronic surveillance—no one else and no other company. I hear talk this would apply to Blackwater. It does not. This is strictly for electronic surveillance.

The FISA Court has the most experience with FISA practice and surveillance law. It has an unblemished record for protecting national security secrets. It has 11 judges. They sit 24/7. It has an appellate branch, and it is knowledgeable and skilled in intelligence matters.

Under the amendment, there would be a narrowly tailored three-part review. First, the FISA Court would determine whether a telecommunications company provided the assistance alleged in the cases against them. If not, those cases are dismissed.

Second, if assistance was provided, the court would determine whether the letter sent by the Government to the telecommunications company met the requirements of 18 USC 2511. That is part of the FISA law. If they did, the companies would be shielded from lawsuits.

Let me tell you quickly what that law says. That law, in 2511(2)(a)(i)(A) and (ii)(B), allows for a certification in writing by a person specified in section 2518(7) of this title—which means the Attorney General, Deputy Attorney General, Associate Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State who reasonably determines that a series of conditions are met: that an emergency situation exists, immediate

danger of death or physical injury to any person, conspiratorial activity threatening the national security interest or conspiratorial activities characteristic of organized crime.

All those provisions, in one way or another, did exist. So a certification in writing under section 2511 must be by one of the people I enumerated, or by the Attorney General of the United States, and say that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required. Then there are some provisions setting forth the period of time during which the provision of the information, facilities, technical assistance is authorized, et cetera. That is the law.

So the question is: Were the certifications provided adequate under this law that I have read? If they were, the companies would be shielded from lawsuits.

The third part is the hardest. In any case where the defendant company did provide assistance but did not have a certification that complied with the sections I have read in 2511, the FISA Court would assess whether the company acted in good faith, as is the standard under common law. The FISA Court would determine whether the company had an objectively reasonable belief that compliance with the Government's written request or directives for assistance were lawful.

In the underlying bill, all the cases against the phone companies will be dismissed as long as the Attorney General can tell the court that the Federal Government assured the companies that the assistance it was seeking was legally permitted. That is the way it works in the underlying bill. Under this formulation, there is no court review of whether the assistance was, in fact, legal and adequate under the law or whether the companies had an objectively reasonable belief they were legal. This is a major shortcoming of any legislative or executive grant of immunity.

I thought this when I voted for the immunity provision in Intelligence. I had hoped it would be revised in the Judiciary Committee. I hadn't come upon this solution until I discussed it at length with Senator WHITEHOUSE and also with several professors of law and also with a Member of the House of Representatives. Then I thought, I wonder if this is a way to handle the immunity question that is fair and objective and handled by a court that is trained and deals with these matters on a continuing basis. I believe it is.

There are many Senators who believe the immunity provision should be taken out wholesale and that the current court case should continue. That is why I have introduced this amendment with Senators NELSON and CARDIN, which puts before the Senate a court review option. This amendment would allow phone companies to receive the immunity they are seeking, but only if the independent review by

the FISA Court determines whether the assistance that was provided is lawful on its face or the companies had a good-faith, objectively reasonable belief that it was in fact lawful.

The arguments run hot and heavy on both sides of the immunity question. They may well prevent the successful passage of a bill by both Houses. Here is some history, though.

Shortly after September 11, 2001, the Government reached out to telecommunications companies to request their assistance in what has become known as the terrorist surveillance program. Within 5 weeks of 9/11, letters were sent from senior Government officials to these companies that put a governmental directive by the executive branch, and these letters were sent every 30 to 45 days to the telecoms, from October of 2001 to January of 2007, when the program was, in fact, put under FISA Court orders.

Only a very small number of people in these companies had the security clearances to be allowed to read and evaluate these letters or directives. And then even they could only discuss the legal ramifications internally. They could not go out and get other opinions and vet it. That is a fact.

We also know that at the time the requests and directives were made, there was an ongoing acute national threat. The administration was warning that more attacks might be imminent, and we now know there was a plot to launch a second wave of attacks against the west coast. In such an environment, I believe, and I think most of us believe, the private sector should help the Government when it is legal to do so. In fact, we should want the private sector to do all it can to help protect our Nation.

In addition, there has been a long-standing principle in common law that if the Government asks a private party for help and makes such assurances the help is legal, the person or company should be allowed to provide assistance without fear of being held liable.

One would think this should especially be true in the case of protecting our Nation's security.

However, this is not a situation that had not been contemplated or prepared for. Congress passed FISA and included language in that statute to address such situations regarding how and when the Federal Government may seek assistance from private companies when conducting electronic surveillance, where there is no court warrant. Those are the sections I have read to you. In fact, the law is very clear on this and under what circumstances a telecommunications company may provide such information and services to the Government, again, as I have indicated.

Assistance can always be provided when there is a court warrant. In this case, unfortunately, the administration did not even attempt to get a FISA Court warrant. It essentially dismissed FISA out of hand as a remedy.

That is most unfortunate. The question comes, should the telecoms be blamed for that? I think that is something we need to grapple with.

The administration could have gone to the FISA Court. It chose under its article II power or its misinterpretation of the AUMF that it would not do that. Is that the responsibility of the telecoms?

As I have said, under United States Code, title 18, section 2511, the sections I have read, assistance may be provided without warrant if the Government provides a certification in writing that "no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required." That is the law.

With that said, I have read the letters that were sent to the telecom companies every 30 to 45 days for several years requesting assistance and providing legal assurances. No one can say now with legal certainty that the certification requirements of section 2511 were or were not met. I believe this is a question that should be addressed by a Federal court, and I further believe that the Foreign Intelligence Surveillance Court is the court to do it.

The administration has had its own view that article II of the Constitution provided the President with the authority to conduct international electronic surveillance outside the law, as long as it complied with the Fourth Amendment. To what extent the phone companies relied on this legal theory I do not know, nor does anyone else at this time, I believe.

But the companies have a reasonable argument. They relied on written assurances in which the Attorney General, the top law enforcement officer of the country, said their assistance was lawful. They were not able to do due diligence because of security limitations. We have no way of knowing the full content of their deliberations regarding article II authority of the President, despite testimony they have given to us on the Intelligence and Judiciary Committees.

In addition, these companies face serious, potentially extraordinarily costly, litigation and are unable at the present time to defend themselves in court or in public because of the Government's use of the state secrets defense. This places the companies in a fundamentally unfair place. Individuals and groups have made allegations to which the companies cannot answer, nor can they respond to what they believe are misstatements of fact and untruths.

I asked the companies, when somebody opposed to their position came to testify before a committee of the other body: Why don't you testify and respond? They said: Because our hands are tied; we cannot.

So today we are in a situation that creates a difficult and consequential problem for Congress to address. The way Senator NELSON of Florida and

Senator CARDIN and I see this is that the question of whether telecommunications companies should receive immunity hinges on whether the letters the Government sent to these companies meet the requirements of 18 U.S.C. 2511. If not, did the companies have a good-faith reason to believe there was a lawful reason to comply? In other words, we should not grant immunity if companies were willingly and knowingly violating the law.

I believe the best solution is to allow an independent court, skilled in intelligence matters, to review the applicable law and determine whether the requirements of the law or the common law principle were, in fact, met. If they were, the companies would receive immunity. If not, they would not.

I wish to briefly speak on the second amendment which I will broach at the appropriate time, and that is the question of exclusivity. This amendment is cosponsored by both chairmen, Senators ROCKEFELLER and LEAHY, Senators NELSON, WHITEHOUSE, WYDEN, HAGEL, MENENDEZ, and SNOWE. I will describe it briefly.

We add language to reinforce the existing FISA exclusivity language in Title 18 by making that language part of the FISA bill which is codified in Title 50. The second provision answers the so-called AUMF, the authorization to use military force, resolution loophole. The administration has argued that the authorization of military force against al-Qaida and the Taliban implicitly authorized warrantless electronic surveillance. My amendment states that only an express statutory authorization for electronic surveillance in future legislation shall constitute an additional authority outside of FISA. This makes clear that only specific future law that provides an exception to FISA can supersede FISA.

Third, the amendment makes a similar change to the penalty section of FISA. Currently, FISA says it is a criminal penalty to conduct electronic surveillance except as authorized by statute. This amendment replaces the general language with a prohibition on any electronic surveillance except as authorized by FISA by the corresponding parts of title 18 that govern domestic criminal wiretapping or any future express statutory authorization for surveillance.

And finally, the amendment requires more clarity in a certification that the Government provides to a telecom company when it requests assistance for surveillance and there is no court order.

Remember, on the question of immunity, we have existing law. The law I read earlier is vague and it is subject to interpretation. The question is whether we do the interpretation or whether a proper authority does the interpretation which, of course, is a court of law, namely, in this case, the FISA Court.

Currently, certifications must say under 18 U.S.C. 2511 that all statutory

requirements for assistance must be met. The telecom official receiving that certification is not given any specifics on what those statutory requirements are, so the company cannot conduct its own legal review.

This amendment would require that if the assistance is based on statutory authorization, the certification must specify what provision in law provides that authority and that the conditions of that provision have been met.

I believe our amendment will strengthen the exclusivity of FISA, and I believe it is absolutely critical. Without this, we leave the door open for future violations of FISA.

When FISA was first enacted in 1978, there was a big debate between the Congress and the executive branch over whether the President was bound by law. We have had a repeat of that debate over the past 2 years since learning of the existence of the terrorist surveillance program. But the end result of the debate in the 1970s was clear. FISA was established as the exclusive means by which the Government may conduct electronic surveillance for foreign intelligence purposes, period. FISA was meant to be exclusive, and section 2511(f) of title 18 of the United States Code states that it is, in fact, the exclusive authority for domestic criminal wiretapping and that "the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such act, and the interception of domestic wire, oral, and electronic communications may be conducted for foreign intelligence purposes."

The legislative history is clear—ignored, but clear. In stating that "FISA would prohibit the President, notwithstanding any inherent powers, from violating the terms of that legislation," the 1978 report language was a clear statement of the intent of the Congress at that time, just as this amendment is now.

Congress also wrote in 1978 that in terms of authority for conducting surveillance, "FISA does not simply leave Presidential powers where it finds them. To the contrary. The bill substitutes a clear legislative authorization pursuant to statutory, not constitutional, standards."

President Carter signed the 1978 bill. His signing statement said this:

This bill requires for the first time a prior judicial warrant for all

In italics—

all electronic surveillance for foreign intelligence or counterintelligence purposes in the United States in which communications of U.S. persons might be intercepted.

So it is crystal clear on its face that FISA was the only legal authority under which the President could proceed when he authorized the "Terrorist Surveillance Program" after September 11. He chose not to. And this is where the issue becomes joined, I believe, one day before the highest Court of the land: whether the President's

Article II power essentially still supersedes these clear statements of legislative intent and clear drafting of law over many decades.

To make matters worse, the administration claimed and still does claim that the resolution to authorize the use of force against al-Qaida and the Taliban provided authority to institute the Terrorist Surveillance Program. It does not.

I do not know one Member of Congress who believes they voted for the TSP when they voted to authorize the use of force. It was never contemplated, and I was present at many of those discussions, in private and in public. It was never considered.

In fact, FISA allows for 15 days of warrantless surveillance following a declaration of war. So Congress in 1978 had spoken on the issue of wartime authorities, and it did not leave open the possibility of open-ended warrantless surveillance.

Then the Department of Justice came to the Congress in September of 2001 with the PATRIOT Act. The legislation included numerous changes needed to FISA to wage this new war, but the administration did not request changes that would allow the TSP, the Terrorist Surveillance Program, to function lawfully. Nor did the administration express the limitations on FISA surveillance that the TSP was created to overcome.

In effect, we have a claim from this administration, which has never been recanted, that the President has the authority to conduct surveillance outside of FISA. We are spending enormous time and effort to rewrite FISA, but there is no guarantee that the President will not again authorize some new surveillance program outside the law. That is why those of us who put this amendment together have taken so much time to write strong exclusivity language right into this law.

When I have asked the Director of National Intelligence about this, he has said that with the new FISA authorities in this bill, the intelligence community wouldn't need to go outside of FISA. I would like to find comfort in this response, but I don't, and that is why I am offering this exclusivity amendment.

The President does not have the right to collect the content of Americans' communications without obeying the governing law, and that law is FISA.

I recognize the administration disagrees with me on this point. The White House believes the President's Article II authority allows him to conduct intelligence surveillance regardless of what Congress legislates. I disagree.

However, we are not going to resolve that question. As I said, ultimately it is for the Supreme Court to decide. But here now we must make the strongest case that the only authority for electronic surveillance is FISA, and we must again be as clear as possible ex-

actly when FISA authorizes such surveillance.

That is our function under article I of the Constitution.

Let me say, however, despite the fundamental differences of views over separation of powers, this amendment has been carefully negotiated with officials at the Department of Justice, the Office of the Director of National Intelligence, and the National Security Agency. The executive branch has not raised operational problems or concerns with this language.

This exclusivity amendment will not affect ongoing or planned surveillance operations. Of course, I should also say clearly that the executive branch does not support the language. They do not want FISA to be the exclusive authority. But, legislatively, that has been the intention of this Congress since 1978.

I have tried to perform my due diligence on this whole terrorist surveillance program and the FISA issue since the news of the warrantless surveillance broke in December of 2005. I have become convinced that without strong exclusivity language such as provided in this amendment, another Congress in the future will be faced with exactly the same thing we are now.

I will repeat what I said in December: I cannot support a bill that does not clearly reestablish the primacy of FISA. We took the first step with very modest language in the Intelligence Committee. The Judiciary Committee passed very strong language, but unfortunately it has not been added to the bill before us. Both committee chairmen have cosponsored this amendment, as well as the others I have listed. The Department of Justice and the intelligence community have thoroughly reviewed the amendment. There is no operational impact. I hope we end the question once and for all whether the President can go around the law.

At the appropriate time, I will move this amendment, and I hope it will be accepted by this body, as well as the court review of the immunity amendment.

Mrs. FEINSTEIN. Madam President, I yield the floor, and I suggest the absence of a quorum.

THE PRESIDING OFFICER (Mrs. MCCASKILL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, this afternoon the Republicans have held an issues conference; in fact, I believe for most of the day. As a result, they have not been here today to engage in discussion on the Indian Health Care Improvement Act. I just finished speaking with Senator MURKOWSKI, vice chairman of the committee. We talked about the bill. She has played a significant role as vice chairman in bringing

this Indian health care improvement bill to the floor. We both would like those who have amendments to provide notice to us of their amendments.

Our cloakrooms have asked for a list of amendments so that we may process them. It appears, based on what the majority leader indicated, that we will at some point today, perhaps in the next hour or two, turn to the Foreign Intelligence Surveillance Act. The reason for that is, there is a deadline of February 1 by which that Act has to be renewed. It expires and we have to take action to renew it. It will be controversial and cause quite a debate. So what the majority leader has indicated is that he will turn to the Foreign Intelligence Surveillance Act, and we will be on that tonight, tomorrow, perhaps Friday and Saturday—who knows?—and that following completion of that, he will bring the Indian health care improvement bill back to the floor.

My appreciation to the majority leader, he is trying to balance some difficult things. He, for the first time in 10 years, decided we should do what we should have done in the last 10 years, and that is reauthorize Indian health care.

We have a scandal in Indian health care with full scale rationing. Only 40 percent of health care needs are being met. We have people dying today on reservations because health care that we take for granted for our families, many of us, is not being made available on Indian reservations. I thank Senator REID for allowing us to come to the floor and putting this in the schedule. When it is pulled from the floor to go to FISA, it will be brought back next week or when FISA is completed. I appreciate that.

I notice my colleague from South Dakota, Mr. JOHNSON, is here. Senator JOHNSON and I share the Standing Rock Sioux Indian reservation that straddles our boundary of North and South Dakota. It is a large reservation. Both of us have been there many times. South Dakota has a number of other Indian reservations. Senator JOHNSON, as a member of the committee, has done superb work with us to put this legislation together. I appreciate his help and his attention to what is an urgent priority for American Indians, to get the health care this country long ago promised. We wrote it in treaties. We have a trust responsibility. That responsibility is affirmed by the Supreme Court of the United States. Yet we have had broken promises and broken treaties. At long last we must affirm our responsibility to say to Native Americans: It is our responsibility. We assumed that responsibility to provide decent and good health care, health care we can be proud of for Native Americans. That is what this discussion is about.

Because I have seen my colleague from South Dakota come into the Chamber, I did want to say a special thanks to him. I know my colleague, Senator MURKOWSKI, and other Repub-

licans and Democrats on the committee worked hard. We all worked together—it was bipartisan—in getting this bill to the floor. Senator JOHNSON, over a long period of time, has worked to make this day happen. Let me thank him for his great work.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Madam President, I am here to speak in favor of the Indian Health Care Improvement Act. To the nine treaty tribes in my State, and hundreds of others around the country, this bill is truly a matter of life and death. It is a sad fact that the six counties in America with the lowest life expectancy are tribal counties in South Dakota.

Poor health care affects not only life expectancy but also the quality of life for American Indians; it is also preventable. My office gets hundreds of calls from constituents needing help with even the most basic needs that ought to be met by the Indian Health Service.

For example, Butch Artichoker from the Rosebud Sioux Tribe told my office he did not want to have a cancer test because he would not be able to get contract health treatment from IHS if the test was positive. His situation is not unique.

Another man from Pine Ridge contacted my office after receiving the results of a cancer test that showed his PSA levels were ten times above normal. He could not get a referral for a treatment MRI because, according to IHS, his cancer was not a priority one—threat to life or limb.

I am a cancer survivor myself thanks to early screening and detection, which are paramount for effective treatment. This is also true for mental health problems and many other treatable disorders. Passing this bill will not fix every health problem facing Indian Country, but it is a major step that we need to take.

I returned from my own health challenges with a better appreciation of what individuals and families go through when they face the hardship of catastrophic health issues.

Providing better health care through IHS will serve not just American Indians but protect the overall public health network for my State and the rest of the country.

IHS is a vital part of the patchwork of providers that serve our State and when one of these providers improves, the entire system benefits. This is not just a tribal issue or an Indian bill, but a moral issue for individuals and families as well as the integrity of my State and our country.

I thank Senator DORGAN for his leadership and persistence. I ask that my colleagues quickly pass this bill, as these improvements to Indian health care are long overdue.

I yield the floor.

Mr. DORGAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SALAZAR. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SALAZAR. Madam President, I rise in strong support of S. 1200, the Indian Health Care Improvement Act of 2007, which will reauthorize, improve, and expand necessary health care services and programs for the Native American population. I thank Chairman DORGAN and Ranking Member MURKOWSKI of the committee for their leadership on this legislation. I also thank my colleagues on the Finance Committee, Senator BAUCUS and Ranking Member GRASSLEY, for their leadership and contribution. The work we have done in the last year and the debate we will have this week is a debate that is long overdue.

It has been 16 years since Congress conducted a comprehensive review of the Indian Health Care Improvement Act, 16 years since we addressed the persistent health disparities in Native American communities across the Nation.

This bill is vital to millions of Native Americans across the country, including the 52,000 Native Americans who reside in my State of Colorado.

Colorado is home to two sovereign American Indian nations: the Ute Mountain Ute Tribe and the Southern Ute Tribe. They are located in the southwestern part of Colorado. But as we must remember—and my colleagues have alluded to this in this week's debate—the majority of Native Americans across this country, including in Colorado, do not live on the reservations. In Colorado, members of 35 different tribal nations live in the urban, suburban, and rural communities of my State, from Durango to Denver.

It is hard for us in this Chamber and in America to overstate the contributions of Native Americans to our economy, our society, our culture, and our history.

In my State, the Utes are the oldest known continuous residents of Colorado. The earliest Ute tribes traveled along the eastern slope of the Rocky Mountains before settling in Colorado, Utah, and New Mexico. In western Colorado, they hunted, gathered, and worked the lands, often moving with the seasons to better climates to better their possibilities of livelihood. The Spanish arrived in the Southwest—in Colorado and New Mexico—in the late 1500s—in the 1630s and 1640s—and in the beginning, they became the trading partners for the Utes, exchanging tools for meats and fur.

What followed that chapter is a set of very sad chapters in Colorado and the United States. It was a set of sad chapters characterized by violence, retaliation, and tragedy, much of it at the hands of the Federal Government.

Over the next few decades, under pressure from the Federal Government,

the Utes would enter into agreements to establish reservations, but this included giving up very large sections of their land. While a small part of that land was ultimately returned to the Utes in the two reservations that were set up in Colorado and the one that was set up in Utah, the modern-day reservations are the result of various Government actions, encroachment by settlers, and mining interests that ultimately limited the two tribes in Colorado to a small percentage of the reservations that were originally contemplated for the Ute Indians before the existing reservations were established.

The issues confronting Native American communities today are inextricably tied to this history. The Federal Government's responsibility to Native American communities is likewise tied to this very difficult and painful history.

But this week, under the leadership of Chairman DORGAN, we hope to write another chapter into this history. We hope to take another step toward making good on the Federal Government's promise to improve health care for Native Americans.

The health care statistics for Native American communities do not lie, and they are troubling. They should be troubling to all of us here in America. The infant mortality rate is 150 percent greater for Native Americans than that of Caucasian infants. Native Americans are 2.6 times more likely to be diagnosed with diabetes. Life expectancy for Native Americans is 6 years less than the rest of the U.S. population. Suicide rates—suicide rates—for Native Americans are 250 percent higher than the national average.

The health care disparities we see throughout the country are also evident in my State of Colorado. In 2006—that was not too long ago—5.5 percent of Native Americans died from diabetes, more than twice the rate of the general population. In the same year, 3.9 percent of Native Americans died from chronic liver disease, compared with 1.6 percent for the general population.

For many Native Americans, access to health care is the biggest challenge they face as human beings. I have heard countless stories of individuals, Native Americans in my State, who are sick or are in pain and have to drive hundreds of miles to receive any kind of treatment. When they get there, after having driven sometimes 9 hours, they will find that the clinic cannot provide them the treatment they seek. Those services, they learn, are in hospitals located hundreds of miles away.

Access problems affect not only Native Americans on reservations that span hundreds of miles but Native Americans living in urban areas as well.

For the 25,000 Native Americans living in Denver, CO, today, there is only 1 health care facility that is available to meet their health care needs. That

is the Denver Indian Health and Family Services facility. This facility is funded by the Indian Health Service program through funding allocated through title V of the Indian Health Care Improvement Act, which provides funding for urban health centers for Native Americans.

The Denver Indian Health and Family Services began providing health care onsite to Native Americans living in the Denver metro area in 1978. The majority of its patients are single parents, making an average of \$621 per month—\$621 per month. That is a total of approximately \$7,400 a year. That is not a lot of money for any family. When a patient needs specialized treatment, however, they often have to travel 6, 7, 8, 9 hours to places such as Rapid City, SD, or Albuquerque, NM. This is a long trip for anyone, particularly if they are sick or injured.

The U.S. Government has a long-standing and solemn responsibility to the Native American population of our country. That responsibility is set forth and recognized in treaties, statutes, U.S. Supreme Court cases, agreements, and in our U.S. Constitution. It is a trust responsibility that flows from Native Americans' relinquishment of over 500 million acres of land to the United States of America. Native Americans see the reauthorization of this health care bill as part of the U.S. Government living up to its end of the bargain with tribal governments. And they are right.

The disparities in health care between Native Americans and the general population is a real problem, and it is one Congress has a responsibility to address. I am proud of the bill we are considering today because it takes major steps toward reducing the health care disparities that persist in Native American communities.

Although appropriations for IHS have traditionally fallen far short of the actual health care needed in Indian Country, the focus on preventive care in current reauthorization legislation will make more efficient use of the Indian Health Service's limited resources.

Difficulties in recruiting and retaining qualified health professionals have long been recognized as a significant factor impairing Native Americans' access to health care services. The programs authorized in this bill will help recruit Native Americans into the health care profession. Additionally, this bill provides for health education in schools, mammography and other screenings for cancer, and helps cover the cost of patient travel to receive health care services. Additionally, this legislation removes barriers and increases participation and access to Medicare and Medicaid Program benefits.

Title V of this legislation would also fund programs in urban centers to ensure that health services are accessible and available to Native Americans living in cities across the country, such

as Denver, CO. Key programs include immunization, behavioral health, alcohol and substance abuse programs, and diabetes prevention, treatment, and control.

In addition to reauthorizing and expanding existing programs, this legislation will ensure that Native Americans are able to take full advantage of new technologies and new Federal programs that have emerged since the last reauthorization, including Medicare Part D and the State Children's Health Insurance Program. Indian health programs should work hand-in-glove with these new programs and new resources.

Native Americans in the United States of America deserve access to a 21st-century health care system.

I again thank my colleagues, Senator DORGAN, the chairman of the committee, and Senator MURKOWSKI, for their bipartisan leadership on this very important legislation and for their tireless leadership for Native American communities across the country.

I hope my colleagues will support this bill. We need to get this bill to the President's desk as soon as possible.

In conclusion, as we look at the United States of America, we see an America that is an America that has a covenant about being an America in progress. We see it in a number of different ways—in the ways which we have treated women and other racial or ethnic minorities. But there is a sad and painful story to this America in progress that is particularly poignant when you look at how we, as the United States of America, have treated the Native American communities of our Nation. So this is an issue in my mind that is a fundamental issue of civil rights. It is a fundamental issue we must resolve in order to be able to uphold this covenant of America that makes us an America in progress.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I thank the Senator from Colorado, who is a strong voice for fairness and justice and for health care on Indian reservations. I appreciate very much his work and his relentless determination to help us get this done. I know he comes from a State that has a good number of Indian tribes and that he has toured those areas and is very concerned about this issue.

Madam President, I want to, in just a couple minutes, show once again a photograph of a man I showed yesterday during this discussion. His name is Lyle Frechette. Lyle Frechette, shown in this photograph, was a member of the Menominee Tribe of Indians in Wisconsin. He came of age during a time when there was what was called the "termination and relocation era of Indians."

This picture of Lyle Frechette is a picture of a high school graduate who was newly entering the Marine Corps to proudly serve his country. I showed that photograph yesterday to describe

that there is no group of Americans that has served their country in the military in larger numbers per capita than Native Americans—than American Indians and Native Alaskans. There is just no group that has enlisted in higher numbers to support their country in our military. This is a photograph of one of them. His experience, following his service in the Marines, was the experience of so many Indians.

During the termination and relocation period, many of them were given one-way bus tickets and told: You need to mainstream; you need to go to a city someplace. They found they had limited opportunities in the cities. They lost their health care capability. It was a time that we are now not proud of in terms of public policy because it was the wrong thing to have done, particularly when we had promised a trust responsibility, providing health care for Native Americans.

SPENDING PRACTICES AT VETERANS CHARITIES

Madam President, I wanted to show that photograph again because I wanted to say something else that is not on the topic of this bill but something I read last Friday which has bothered me ever since I read it. It deals with those such as Lyle Frechette and others who joined the military and became soldiers for our country.

The Washington Post, last Friday, contained a story about a hearing that was held the day before in the U.S. House of Representatives. It was a hearing about spending practices at veterans charities.

There is an organization that has evaluated various charities that have been established to provide assistance for veterans. That organization, the American Institute of Philanthropy—which is the leading watchdog group—said there are about 19 military-oriented charities that manage their resources very poorly.

But let me describe what made my blood boil Friday morning when I read it. I was not aware of it. But Help Hospitalized Veterans—a tax-exempt organization—Help Hospitalized Veterans—an organization that is presumably going to collect funds from around the country to help hospitalized veterans—it spent, according to the report, hundreds of thousands of dollars in donations that were to help wounded soldiers on personal expenses instead for those who were running the organization. Instead of helping wounded soldiers as the title says—Help Hospitalized Veterans—those who were running the charity were bathing themselves in cash: a \$135,000 loan to the fellow who runs the organization for a divorce settlement with his former wife; a \$17,000 country club membership; a \$1 million loan to Mr. Viguerie, the direct mail guru, for a startup initiative at his firm.

The second charity, the Coalition to Support America's Heroes—also a charity designed presumably to help America's veterans—was fundraising, getting tax-exempt donations or tax-de-

ductible donations, and they used a four-star general, retired Four-Star GEN Tommy Franks, to sign letters of solicitation asking for funds, and paid him \$100,000 for that. Now, I think Tommy Franks ought to explain to the Congress and ought to explain to veterans why a retired four-star general is being paid \$100,000 to sign letters to solicit money to help veterans. I think GEN Tommy Franks has a lot of questions to answer, including a number of questions dating back about 4 years, from me and others. But I was very surprised that a charity is paying \$100,000 to a retired four-star general for allowing his name to be used to solicit funds from individuals across the country to help veterans.

The Help Hospitalized Veterans raised more than \$168 million from 2004 to 2006. They raised \$168 million from 2004 to 2006, and they spent one-quarter of it on veterans. Let me say that again. They raised \$168 million of tax-deductible contributions to an organization called the Coalition—excuse me, this is Help Hospitalized Veterans—raised \$168 million, and one-quarter of it went to help veterans; the rest went elsewhere. That is unbelievable, just unbelievable. In this Congress—I hope the committee in the House that held these hearings will continue, and I am now evaluating whether we can begin a series of similar hearings. I think that is equivalent to theft, and I hope very much that we will continue to apply heat to those who would use veterans' names in this manner. An organization that solicits \$168 million and uses only one-fourth of it in support of veterans when their title is Coalition to Support America's Heroes—or I guess Help Hospitalized Veterans, one of the two—one-fourth of the money is used to go to veterans, the rest of it is going for country club memberships and loans for divorce settlements. That is unbelievable to me. I hope very much that both the House and the Senate will continue to aggressively investigate these organizations, and I hope perhaps if we have some hearings, we might ask retired GEN Tommy Franks to come and explain to us why it is appropriate for him to accept \$100,000 that comes from tax-deductible donations in order to sign a letter soliciting money that is presumed to be in support of veterans when, in fact, three-quarters of the money went elsewhere.

My colleague from Alaska has come to the floor, and I want to again say it has been a pleasure to work with her. She is vice chairman of the Indian Affairs Committee and has done a remarkable job. She, perhaps more than anyone in the 48 States and the mainland, has very unique issues in the State of Alaska, because the Native Alaskan villages are remote and the health care issues that relate to them are different, difficult, and unusual, and she has represented that situation aggressively and relentlessly as we have tried to put legislation together to address it. I thank her for the work

she has done, and I look forward to working with her. We will not apparently finish this bill today, but we will get the bill back on the floor following the Foreign Intelligence Surveillance Act, and when we do—the two of us have talked—we very much are intent on finishing this in 1 day and getting to conference, getting the bill to the President, and getting it signed.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I thank the chairman of the committee for his great cooperation on this very important issue. I know we had all hoped—certainly my constituents had hoped, and I think my colleagues as well, as so many around the country who have been waiting years—literally waiting a decade—for reauthorization of this Indian Health Care Improvement Act. We are pleased that we are on the floor. We would like to see this moved through the process as quickly as possible. We understand the issues we have in front of us and what we have to do in order to get this through, but I appreciate the great leadership of the chairman of the Indian Affairs Committee and of so many who have worked to advance this legislation.

I thank Chairman DORGAN for reminding all of us of the great contributions we have had from so many of our American Indians, Alaska Natives, when it comes to serving our country. I think if you look at the demographics and look at it on a per-capita basis, we see higher numbers, certainly in Alaska, of our Alaska Natives serving in the military than any other populations in the State, serving admirably over the years, whether they be the Eskimo Scouts or whether they be the group serving from the National Guard which recently returned from Kuwait.

I had an opportunity a couple of months ago to meet those Alaskans who were returning. I met up with them in Camp Shelby and had an opportunity to talk to the men who were returning from Kuwait after well over a year. They had been in the desert. Most of these soldiers came from villages from around the State. There were some 80 villages—communities—that were represented amongst this particular unit. Many of them, when they returned back home to Alaska after coming from the desert and going home to the snow, would be returning to very small towns and very small villages that are not connected by any form of a road system. During the winter months, you have connection because the rivers are now frozen and you can take a snow machine to get from one small village to another and hopefully out to a larger hub community. But the reality is so many of these fine men who have served our country are going back to areas where health care options are very limited.

Yesterday I had an opportunity to show my colleagues a couple of pictures. There is one of the health clinic

in Atka. We also had a picture of the health clinic in Arctic Village. As you look at the pictures, you can see the health clinics are small and they are clearly broken down. They are older facilities. They are very limited in terms of what they can provide. But this is what we have out in these villages. These soldiers who are returning need to go to the VA for services. They don't have a VA out in Chevak. They don't have a VA facility out there in Atka. They have the Atka Village Health Clinic. This is a two-story clinic, so it is by all standards perhaps better than some of the others in some of our villages. But what we have seen in a State like Alaska where access to care is so very limited, is the IHS facility essentially ends up being the entity that will provide for that level of care for that serviceman, for that veteran, because to get from Atka to Anchorage, to the Anchorage Native Medical Center, is costly. Sometimes the VA picks up the travel, sometimes not. It depends on your income eligibility. If there isn't any—if the Government is not there to pick up your costs, not only do you have the cost of air travel, which can be upwards of \$1,000 for your roundtrip fare, but you have your expenses while you are in the city—in town.

So we look at what is provided to so many in our small clinics around the State. Now, is it right that the clinic should have to pick up or basically carry the water or carry the bag for the VA? Not necessarily, no. But is this where we can provide for a level of care that is in the village for the individual, with their family, and ultimately reducing so many of the travel costs that are there? Absolutely. So I say this to my colleagues, so people can understand that oftentimes what we are dealing with in terms of access when you are in a State where it is so rural, where you don't have roads, or the cost to travel is prohibitive, we have to be more creative in how we provide for the level of care. In Alaska, we think we are being more creative with that. But with the reauthorization of the Indian Health Care Improvement Act, it allows and facilitates greater sharing, greater cooperation, ultimately greater collaboration, that leads to greater cost savings.

I want to take a couple moments this evening—it has been mentioned by our colleague from Colorado, and certainly the chairman mentioned the provision we have in the substitute amendment regarding violence against Indian and Alaska Native women. I mentioned in my comments yesterday that we have seen some successes in Indian health, even with the very stark health statistics that have been repeated by so many on this floor. There is one area, though, where I do not believe we have made any progress, and one I am very pleased we are addressing in this bill, and that matter is the terrible violence that faces native women and children.

Back in September of 2007, the Committee on Indian Affairs held an over-

sight hearing on the prevalence of violence against Indian women. We had several witnesses, very compelling witnesses, at that hearing, one of whom was from Alaska, a woman by the name of Tammy Young, and she represented the Alaska Native Women's Coalition Against Domestic Violence and Sexual Assault. She testified about the intensity of such prevalence and the need for remedies to properly address the problem.

In my State, we have one major city. Anchorage holds about almost half the population of this State. The Alaska Native people make up 8 percent of the total population of Anchorage. But the percentage of Alaska Native victims in Anchorage alone was 24 percent. You can see the disparity in these numbers. Alaska has one of the highest per-capita rates of physical and sexual abuse in the Nation.

In Alaska, an Alaska Native woman has a likelihood of rape that is four times higher than a nonnative woman in the State. Our statistics are horrendous. They are deeply troubling. But we know it is not only in Alaska that there is this danger of violence that faces our Native women. Statistics show that Native women around the country are two to three times more likely to be raped than women from other populations in the United States. As I say, in Alaska it is four times higher. But even if this fact were not as disturbing as it is, it gets even worse because so many of these women who have had this violence upon them also face the prospect that the rapist may not be brought to justice.

This is for a variety of reasons. At the hearing we had a witness indicate that the health services within the Native communities simply lacked the proper infrastructure, the proper resources, to even conduct the forensic exams and therefore assist in the prosecution of the perpetrators. It is as simple as not having rape kits available in the IHS facilities in that village or that community on that reservation, simply not having the forensic equipment, not having it there. Why don't you have it there? It is a funding issue apparently. But you have a situation where you have a woman who has been violated. She comes seeking help, and she can't even have a proper exam so they can collect the evidence so she may then go on and try to prosecute the perpetrator.

In addition, it is the training. We simply do not have enough who are trained in the proper collection of the evidence. Back in 2005, we in Congress passed aggressive programs and services for the reauthorization of the Violence Against Women Act, or VAWA. The witnesses who were there at the hearing back in September advocated that we build on the foundation of VAWA. That is what this legislation does. It provides for just that. It includes programs to address domestic and sexual violence that are critical to shoring up this health infrastructure,

that are necessary to support a successful prosecution, whether it is providing for rape kits at the Indian clinics and hospitals or the training for the health professionals to become the sexual assault examiners. Pretty basic stuff. But if you don't have it there, if you cannot collect the evidence, if you don't have the trained medical professionals to help facilitate that, these victims will be victimized again by simply knowing that the system has let them down.

In addition, the legislation will also require the Secretary of HHS to establish protocols and procedures for health services to victims of violence, as well as to coordinate with the Attorney General in identifying areas for improvement within the health system to support these prosecutions. I believe this aspect of the legislation is extremely important for so many. Again, our statistics in this area are devastating, unacceptable. There is more we can do about it, and this is one small step.

Mr. President, I want to talk about one aspect of the Indian health care reauthorization. I don't believe many of my colleagues have spoken to the underlying policy of self-determination and self-governance, but that is such an integral part of this reauthorization. The Federal policy of self-determination was conceived by President Nixon in the early 1970s, and it has been nurtured or improved upon by almost every administration since then. The legislation, S. 1200, embraces these policies in a very profound manner.

Indian self-determination represents one of our Nation's first enlightened Federal Indian policies. It has been by far the most successful policy in improving the lives of American Indians and Alaska Native people. This policy has been embodied in Federal legislation for over 30 years in the Indian Self-Determination and Education Assistance Act.

S. 1200 facilitates the important interplay between the Indian health care delivery system within the Department of Health and Human Services and the policy of Indian self-determination and self-governance. Beginning in the 1990s, there were a growing number of Indian tribes and Alaska Natives who have taken over the IHS programs. They have made them more efficient and responsive and, I would say, more relevant to the local needs.

In Alaska, I think we can point to what has happened in the area of self-governance as a good example, a positive example of how the Native people have embraced this policy of self-determination and self-governance.

In April 2003, the Committee on Indian Affairs held a hearing on an earlier version of this bill. We had a gentleman there from Seldovia Village, President Don Kashevaroff. He testified about how Alaska Natives began compacting IHS programs in 1997 and how, within 6 years, they had compacted virtually all of the IHS programs within the State of Alaska.

Now, within my State, the Indian health care system is almost entirely a Native-driven system. Senator STEVENS, my colleague, spoke to this in his comments on the Senate floor yesterday. When you take into account that in Alaska there are about 230 separate Native villages, you manage the numbers there, and despite this large number of separate sovereign governments spread out across a State with enormous distances from each other, spread out from the State's metropolitan area, they were able to create a highly efficient and integrated health care delivery system.

I showed you the pictures earlier of the clinics in Arctic Village. Behind me in the photo is the Alaska Native Medical Center, located in Anchorage. Quite different. Yet what we have there in Anchorage at the ANMC is a model for others to view. In Alaska, we have 180 small community health centers, about 180 of what you saw with the Arctic Village clinic, and they provide primary care. We have 25 subregional midlevel care centers. There are four multiphysician health centers, six regional hospitals, and one tertiary care facility. The Alaska Native Medical Center in this picture is that one tertiary care facility. So in the entire State, the Alaska Native Medical Center is the one that provides that tertiary care.

This system was made possible through the Indian Self-Determination Act. This health care system is tailored to meet the very unique needs of the Native people. I don't believe it would have been possible within the administrative structure of the Indian Health Service itself.

Now, I don't want to spend all my time just talking about the situation in Alaska because the success story that you see there is by no means limited to my State. Self-governance is being embraced in several other areas of the country as well: in the Pacific Northwest, the Southwest, in Oklahoma, and in other parts of the country. I think it is important to note that many tribes and tribal organizations have supplemented their IHS programs with their own resources where possible. The Indian Health Service has documented the fact that Federal Indian health programs are only meeting approximately 60 percent of the need. You have heard that time and time again as we have discussed this. Only about 60 percent of that need is met.

The hearings on Indian health held by the committee and information from a 2005 GAO report demonstrated that this underfunding has led to rationing health care within the Indian community. Of course, the unfortunate result of this underfunding is exactly as you have heard many of my colleagues say. It results in many American Indians either foregoing any kind of treatment or delaying receiving medical care, which in turn, then, leads to disease progression. But ultimately it leads to higher costs, greater costs to the system.

I want to point out that several tribes have stepped up with their own resources to enter joint ventures with the Federal Government or to even supplement the Federal dollars in an effort to bridge that 60 percent gap we keep talking about between the Federal funding and the level of need. I want to show a few of the examples.

In the Cherokee Nation in Northeast Oklahoma, we have a self-governance tribe with one of the largest service populations in the country. The Cherokees have just constructed a new clinic in Muskogee, OK, using their own tribal dollars. This facility serves Indian people in northeastern Oklahoma, including members of the Osage, Muskogee Creek, Choctaw, and numerous other tribes.

We also have the Muckleshoot Tribe in Auburn, WA, which built this facility in 2005 at a cost of nearly \$20 million using its own tribal dollars. The Muckleshoot facility is located near the I-5 corridor in Washington and also provides very tailored care for its patients. As you can see from the picture, they try to cater to some of the younger patients as well.

Another Oklahoma tribe in southeastern Oklahoma is the Choctaw Nation, which used their own tribal dollars to construct a 54,000-square-foot facility at a cost of \$13.5 million. In this facility the average monthly patient encounter over the past 12 months has been over 3,800 patients.

Out in Oregon, located in Chiloquin, we have the Klamath Tribe Health Center built in 2004, paid for through a unique partnership between the Klamath Indian Tribe and the IHS, as a health center that primarily serves the Klamath Tribe. It serves a tribal population of 2,890 individuals and cost \$3.6 million to construct.

The last one I want to share with you comes out of Bylas, AZ, and the San Carlos Apache Tribe has constructed this two-building complex on its reservation, which is about 130 miles east of Phoenix. As the main source of primary care for Indians there, this clinic provides dental, behavioral health, optometry, laboratory, pharmacy, health education, and preventive care, among other services.

I use these examples to demonstrate some of the many cases where tribal ingenuity and resourcefulness have changed the Indian health care system for the better. I think this is illustrative of what can happen when the tribes are given the flexibility to plan, to develop, and to determine the future for their own people. We promote that ingenuity in this bill through the amendment to the Indian Self-Determination Act, which will make it possible to bring private sector money into Indian communities to supplement—again, I repeat “supplement,” not supplant—the Federal resources that are appropriated by Congress.

S. 1200 establishes the Native American Health and Wellness Foundation, the primary purpose of which will be to

support the mission of the Indian Health Service by supplementing the Federal resources with private funds and, hopefully, bringing the level of funding for Indian health care closer to that level of need.

Mr. President, I will conclude my remarks this afternoon by repeating that within the Indian health system, you have great disparity. You have seen some of the pictures of beautiful facilities and some pictures of facilities that are in desperate need of help. We have heard stories that just break your heart of people who were denied services, of people whose illness was only compounded because of failures within the system.

But we have also heard some statistics that give us cause for hope that we are making headway within the system in terms of some of the chronic diseases and how we might approach them. Through the Indian health care reauthorization, we focus on those areas that will allow us to do better, whether it is in the area of behavioral health, additional screenings, those programs that focus on prevention, those programs that focus on wellness, so that we can, A, lower our cost of health care but, B, to really allow American Indians and Alaska Natives to have a quality of health care that is at least on par with what you would get if you went to a non-IHS facility.

We have not advanced legislation that would update the Indian Health Care Act since 1992. As I have said, all one needs to do is think back to what we were doing in 1992 in terms of health care. Think how far we have come with the technology. Think how far we have come with the techniques that are utilized. Let's not leave the Indian health care system 10, 20 years ago. Let's allow them to come into a level of service that we care to enjoy.

I mentioned one way we in Alaska are able to deal with the issue of access. In a large State with a small population who are not connected by roads, we have to rely on telehealth. Telemedicine has allowed us to provide for a level of care, whether it is checking out an infant's ear to make sure how bad that ear infection is or whether it is literally videoconferencing with a suicidal teenager and counseling to make sure he is not going to do something precipitous, that he knows he has somebody who is there for him. Our technology allows us to do that, but our legislation needs to be put in place to allow us to take full advantage of the changes in these intervening years.

Again, I stand with my colleague, the chairman of the Indian Affairs Committee, and urge our colleagues, if they have amendments, if there are still issues outstanding, let's work through those, let's get the amendments, but let's work through any remaining issues. We owe it to all our constituents around the country to provide for a better level of care.

With this legislation, it is one small step forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I come to the floor this afternoon to join with the Senator from Alaska and the Senator from North Dakota to urge our colleagues to support this legislation that is going to make a critical difference to thousands of American Indians in Washington State and across our country.

I join in the words of my colleague, the Senator from Alaska. She mentioned several of the tribes in Washington State. This has an important impact on them. I agree with her and thank her for the tremendous work on this issue, helping us bring it to the floor and hopefully to passage so we can make a difference.

I am proud to be an original cosponsor of this Indian Health Care Improvement Act. It does reauthorize and update the health care services our Government provides to American Indians and Alaska Natives. This bill will allow our Indian health clinics and our hospitals to modernize their services and enable them to provide better preventive care. These services are vitally important in Indian Country, where our tribal members suffer from high rates of diabetes and other chronic illnesses. Our Government has a legal responsibility to provide health care for American Indians, but we have a moral responsibility to ensure we provide the best care possible.

The Indian Health Care Improvement Act has not been reauthorized since 1992, and in the years since it expired in 2001, what Congress has done is simply appropriate money for health care programs without examining this act to see how we can improve it. This bill we are now considering takes important steps toward ensuring we are providing the best and the most cost-effective care. It is long time past to pass it.

The health disparity between American Indians and the general population is great. The numbers show why this bill deserves our attention now. The infant mortality rate among Indians is 150 percent greater than for Caucasians. Indians, in fact, are 2.6 times more likely to be diagnosed with diabetes. Indians suffer from greater rates of post-traumatic stress disorder, and the suicide rate among Indians is more than twice the national average. In fact, life expectancy for American Indians is nearly 6 years less than the rest of the U.S. population.

An example from my home State of Washington helps to illustrate the impact these numbers have on Indian communities.

Three years ago, in a 6-month period, the Skokomish Tribe, which has a reservation near Hood Canal, lost 9 of its 1,000 members. Among them were two children, two young adults, and five elders. One of those elders was Bruce Miller. He was a Vietnam veteran and a nationally known artist and spiritual

leader. Bruce helped restore ceremonies that were once banned by the U.S. Government. His work to prevent drug abuse and rebuild tribal customs will be sorely missed. Bruce was only 60 years old when he passed away.

Many of the Skokomish Tribe members died of conditions that are all too common on our Indian reservations—drug overdose, heart disease, cancer, diabetes. These conditions we know are preventable, and many in Indian Country have been working very hard to reverse the numbers I mentioned. But their work has been hindered because Indian health services are badly in need of updating.

The most important thing the Indian Health Care Improvement Act does is help to modernize those services. In the last 16 years, as the Senator from Alaska said, we have revolutionized the way we approach chronic illnesses such as diabetes. Doctors' offices and health clinics around the country now emphasize the importance of eating right, staying healthy. We have changed where we provide services. Instead of treating elderly and chronically ill patients in the hospital, more and more people get care at home or in a community clinic. And now, of course, it is standard practice to coordinate mental health and substance abuse and domestic violence prevention services. But while we have done all that, health care for Indians has gone badly out of date. We are still providing services today as if it was 1992.

The bill we are considering today will help bring health care for Indians into the 21st century and enable their clinics to do more than treat symptoms and instead focus on prevention and mental health.

It is particularly important to ensure Indian health clinics can provide up-to-date care because for many of our tribal members, those clinics are the only source of health care available. For tribal members in rural Washington State and across the West, visiting a doctor off the reservation often means driving for hours to get to the nearest big city. In some of our remote areas, some tribal members never see a doctor off the reservation. They are born in Indian hospitals, they see that doctor for their entire life, and they die in the same hospital.

This bill also funds urban Indian health clinics. In recent years, President Bush and some of my colleagues have questioned the need to provide health services to Indians who live in and around major cities. In fact, disappointingly, the President's budget routinely eliminates funding for the 34 urban Indian health centers that exist in this country, and every year Congress restores the funding because those centers serve thousands of Indians, many of whom are uninsured and would not get care elsewhere. The doctors and the nurses who staff those urban clinics specialize in the conditions many Indians face. Even more importantly, they are sensitive to the

cultural needs of their patients. That makes the difference all too often when a patient is deciding whether to seek care or to do preventive treatment and it increases the chance that an Indian will continue to get the treatment they need, as I said, for preventive or even mental health care.

I am disappointed Republican objections have limited how far the important improvements for urban Indians in this bill can go, but this bill, as now written, does ensure those important health centers stay open. My State has two of them. I have to tell you, I have heard firsthand from a number of our tribal members how important and critical they are.

Both our urban and our rural Indian health clinics also give tribes more decisionmaking power over health programs so they can determine how best to serve their people. In Washington State, we have the Nisqually Health Clinic that is located near Olympia. It offers a community health representative program that trains the tribal members about how to provide basic preventive care and education to help their elders and members who suffer from diabetes or substance abuse.

We need to give programs such as those a boost so they can grow and they can succeed so other tribes can try similar programs. Reauthorizing the Indian Health Care Improvement Act will help us to do that.

Finally, this bill also makes important improvements to the medical benefits provided to tribal veterans. Tribal veterans, as many of my colleagues know, have served throughout this Nation's history with great honor and valor. In fact, American Indians have served in higher numbers than any other ethnic minority in this Nation. But despite that extraordinary commitment to this Nation, veterans services for American Indians oftentimes falls short of what is available for non-Indians.

Fortunately, this bill we are considering changes current law to allow the Secretary to enter into or expand arrangements to share medical facilities and services with the Department of Veterans Affairs. That provision requires consultation with the affected Indian tribes before entering into those agreements, and it requires reimbursement to the IHS, tribes or tribal organizations.

I wish to repeat something I said earlier because it is important. Providing health care to Indians is part of our Government's trust responsibility. It dates back to the 18th and 19th centuries. Congress enacted the Indian Health Care Improvement Act in 1976 to better carry out that duty. In President Ford's signing statement, he said:

Indian people still lag behind the American people as a whole in achieving and maintaining good health. I am signing this bill because of my own conviction that our first Americans should not be last in opportunity.

Thirty-two years later, we still have a long way to go toward achieving that

goal, but we can take some important steps by reauthorizing this bill now.

HOUSING AND EMERGENCY PREPAREDNESS

While I have the floor this afternoon, I wish to change gears and talk about two other issues I heard a lot about at home—housing and emergency preparedness—because I am hearing now disturbing rumors that the President's upcoming budget proposal is going to recommend cuts in those two areas.

First, I wish to emphasize how important it is we continue to provide Federal support for police, fire, and emergency responders in all our communities. This past month, I held several roundtables with our first responders in Washington State to hear what they need to protect their communities, and at every stop, they told me they have already been squeezed by budget cuts and that they have spent the last several years trying to do more with a lot less. They said they are very worried about what it will do if their budgets are cut again.

Emergency responders in our small and rural communities are especially concerned because they depend on Federal grants to keep their communities safe. Let me give one example of the impact these grants have had in my State that I think illustrates why Federal support is so important.

A month ago, storms causing major flooding and wind damage slammed into western Washington. Thousands of our homes on the coast and in the inland counties were flooded and damaged severely. Grays Harbor County, which sits along the Pacific coast, was one of the hardest hit. But Grays Harbor emergency officials told me they were ready because they had recently done exercises to practice emergency response training.

When those horrendous storms hit, first responders in Grays Harbor County relied on vital equipment, basic radio and other safety gear. Without that training, without that equipment, more people in Grays Harbor would have been hurt in that storm. Grays Harbor had both of those thanks to Federal homeland security grants.

From the flooding in Washington State to Hurricane Katrina, to California wildfires, we have had too many opportunities now to witness the need for effective predisaster planning and response support. Real security in our communities does not come cheap.

Now, I have already written to President Bush to warn him against cutting money for port security, transit security, and emergency management grants. I am prepared to fight for these grants. Supporting and protecting Americans here at home has to be a priority for all of us.

HOUSING

When I was home, I also heard from citizens and lenders, housing counselors, people involved in the housing issues in Washington State who are very concerned about the potential cuts to housing grants they are hearing about.

Washington State is fortunate that the economy is still relatively strong compared to the rest of the Nation. But we are seeing signs of trouble. In fact, I heard from a housing official who worked in Kitsap County, one of our more rural counties. She has seen a dramatic increase in the number of people who are now seeking housing counseling. She told me that last fiscal year, their two full-time housing counselors helped homeowners with 50 defaults. They saw that many people in this first quarter alone. In fact, in the 2 days she was with me and others talking about housing, she said she went back home and there were seven more calls on her answering machine about foreclosures.

The Federal Government has to do everything possible to address this wave of foreclosures. One way we can do that is investing in housing counseling. It is vital for troubled mortgage holders to get help early so they can avoid foreclosure and keep their homes.

At a time when we are trying to work to help repair the economy and ensure people can pay their bills, we cannot afford any cuts in our budget for that safety net for our homeowners.

We also have to ensure that low-income Americans who are not homeowners also get help. That means we have to continue to support programs such as Section 8, homeless assistance, and CDBG, which will help keep our communities strong through this and help make sure our low-income residents have a home and can avoid homelessness.

Next month, when we get the President's budget sent to us, you can count on me, I will be scrutinizing every word of it, and I will be back on this floor, if necessary, to fight funding cuts to those programs that are so important to keeping our communities strong.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Pennsylvania.

HONORING PENNSYLVANIA'S TROOPS

Mr. CASEY. Mr. President, I rise today to talk about an issue which is on the minds of millions of Americans, but you would not know about it from listening to the news.

Most of the news has been focused, appropriately so I think, on the economy and the challenges we face. We are all going to be focusing on that issue and we are going to be talking a lot about it and taking action on it.

But at the same time, the war in Iraq remains an urgent issue for our country but especially for the families who are living through this, the small percentage of American families who have someone serving in Iraq, a loved one, a relative, and also, of course, the troops themselves who are serving.

So Iraq, the war in Iraq, remains an urgent issue, an issue that deserves our attention and our continued focus. Today I do not want to talk about the policy. We are going to have months and months to talk about it. I have

strong feelings about it, but today I rise for a very simple but I think important reason and that is to salute the troops from the State of Pennsylvania who have recently died in the war.

In July, I came to the floor to talk about the then 169 Pennsylvania natives, in some cases residents, who had died in Iraq. Today, unfortunately, I have to add nine more since July. We all know a lot of the lyrics of the great singer and songwriter, Bruce Springsteen. I quoted them last summer when I talked about the lyrics from his song "Missing," where he talked about, in the context of 9/11, those who had perished and the effect on a family.

His lyrics say, in part, he talks about waiting for that person to come home, the person who would have lost their life at the tragedy of 9/11. He says: Your house is waiting. Then he repeats it. He says: Your house is waiting for you to walk in, but you are missing.

He says: You are missing when I turn out the lights, you are missing when I close my eyes, you are missing when I see the sunrise.

And he goes on from there. I think that song and those lyrics have an awful lot of meaning for those who have lost a loved one in Iraq. Even if they did not, the time spent away in Iraq for a loved one is difficult enough but especially for a family with a member of their family who died in Iraq. They are missing, and for a lot of those families, will be missing for the rest of that family's life.

It is important to remember and remind ourselves these troops volunteered for service. They were not drafted. They knew their task would be difficult. They knew they would be in danger but they made that commitment.

In the end, they made the ultimate sacrifice. To those families across Pennsylvania, in communities such as Altoona and Falls Creek and State College and Wexford and on and on and on, the war in Iraq is not some obscure abstract policy being debated in Washington. For them, the war is something very real.

As I said before, these fighting men and women in Iraq were born into families, not divisions and brigades. These families and these communities have lost sons and daughters, husbands and wives, brothers and sisters, classmates, friends, all those relationships and all those families and communities.

We know this war has gone on longer than World War II. We know the numbers, more than 3,900 dead. In Pennsylvania, it is at 178. Nationally, the wounded number is about 28,000. In many cases, those who have been wounded are grievously, irreparably, permanently wounded.

We will not forget their sacrifice. But let me read the names of the recently lost from Pennsylvania, the nine members we have to add to our list. I will read their names and their hometowns.

First, Michael A. Hook from Altoona, Pennsylvania; Zachary Clouser, from

Dover; Michael J. Tully, Falls Creek; David A. Wieger, from North Huntingdon; Adam J. Chitjian, from the city of Philadelphia; also from the city of Philadelphia, Camy Florexil; from Pittsburgh, Ryan D. Maseth; David A. Cooper, Jr., from State College, PA; Eric M. Foster, Wexford, PA.

So after reading these nine names, we have now read, between July and this date, all those from the State of Pennsylvania who have died in Iraq since the beginning of the war.

I know we are short on time today, and we could read biographical sketches of all those 178 soldiers. But let me read a couple of notes about a few of them before I conclude.

By way of example, one of the names is Adam J. Chitjian from Philadelphia. There is a section called Somerton in the city of Philadelphia. He was on his second tour of duty in Iraq, 39 years old. He joined the Army and his brother was quoted as saying: He wanted to act rather than just talk. That is why he joined the Army.

He leaves behind a father and sister. When he visited Texas, after being in Pennsylvania and serving our country all those years, when Adam was in Texas, he met Shirley, who would later become his wife. So for that family, we are thinking of Adam and his family. He died on October 24, 2007.

Then we go backward in time to 2003 in November, Nicholas A. Tomko from Pittsburgh, and a couple highlights about his life. He was 24 years old, from just outside Pittsburgh. The town is called New Kensington. His father's name is Jack Tomko. He is quoted, in part, as saying about his son that: He was a great kid, brave as hell. And he goes on from there talking about his son.

Now this is a young man who left behind a fiancée. And he was working as an armored car driver near Pittsburgh. He joined the Reserves 3 years ago hoping to get a head start in a career in law enforcement.

I wish we could say Nicholas A. Tomko would have that opportunity to serve in law enforcement, but this war took him from us.

His fiancée said, and I am quoting in part here: I am going to make sure people know about his service—that he went over there to fight for his country and that he went over to serve. So we remember him.

Two more before I conclude. SSG Jeremy R. Horton from Erie, PA, died on May 21, 2004. His tour was extended. He was a 24-year-old Pennsylvanian. His tour was extended. He joined the Army right out of high school, hoping to get money for college. This is what his uncle said about him: He certainly loved his family, and he loved his country, and he loved the military. It was what he wanted to do. We need more like him.

No one could have said it better than that. We do need more people like him, like Jeremy. He is survived by his wife Christie, whom he married shortly after joining the Army.

I will do one more because I know we are short on time. SSG Ryan S. Ostrom, from Liberty, PA. He was at one point in his life a baseball coach. One of his players quoted the story about his life: He was a good leader and a good person to look up to. And he had that special smile we used to see in the locker room.

That is what they said about him as a coach. This man, Mr. Ostrom, was 25 years old when he died. Here is what another member of the military said, SSG Craig Stevens said about Ryan: He was a soldier you could give a task to and know it would get done. You could just look at him and know he was a leader.

Ryan would have started his senior year at Mansfield University this fall, meaning then the fall of 2005. He is survived by his father Scott and his mother Donna.

I will add one more. We have a minute. Our last biographical sketch is LCpl Nicholas B. Morrison, from Carlisle, PA. He died August 13, 2004. He was 23 years old.

He joined the Marine Corps 16 months ago and planned to become a state trooper in the State of Pennsylvania. He was a 2000 graduate of Big Spring High School, where he was a linebacker on the football team.

I hope we can all remember his family as well today.

Here is what one of his friends said: He was the glue. When he would come home, we would all make an effort to go out. He would make us laugh about stories from when we were growing up.

And on and on and on, stories such as that from so many families and so many communities across our Commonwealth and indeed our country.

I conclude with this thought: There are a lot of great lines in "America the Beautiful." We could spend a lot of time talking about each one of them. One of those lines, when we talk about "America the Beautiful," says: "Oh beautiful for patriot dream that sees beyond the years."

That is what a lot of these soldiers did. They not only volunteered for service knowing they could lose their lives, knowing they had to make a full commitment of their life and their time and their family's time, but they had dreams, dreams of serving their country and hopefully dreams to go beyond that.

But they were patriots and they had dreams and it is those dreams we remember and celebrate today. It is those dreams that go well beyond the years we see before us.

So we remember these troops today and as always we ask God's blessings on their lives, those who gave, as Abraham Lincoln said, the last full measure of devotion to their country.

We remember them today and their families. May God bless them.

Mr. President, I ask unanimous consent that newspaper accounts about these soldiers be printed in the RECORD.

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

PFC. ADAM J. CHITJIAN, SOMERTON, PA—DIED OCTOBER 24, 2007

SOMERTON NATIVE KILLED IN NORTHERN IRAQ (PHILADELPHIA INQUIRER), OCTOBER 27, 2007

A Philadelphia native due to end his second tour of duty in Iraq next month died Thursday of injuries sustained from enemy small-arms fire in Balad, northern Iraq.

Pfc. Adam J. Chitjian, 39, raised in Somerton, had joined the Army 4 years ago in response to 9/11, his older brother, Martin, said last night.

When it came to his country's defense, "he wanted to act, rather than just talk," Martin, 41, of Buckingham, Bucks County, said.

A stocky 5-foot-11-inches, Adam Chitjian "appeared bigger than he was," Martin said. To his brother, Adam seemed invincible.

"I would have bet my life he would have come back without a scratch," said Martin, a lawyer, who was struggling last night to grasp his brother's death. "I don't really believe it happened."

Their father, Martin, who lives in Furlong, and sister, Kara Spatola of Warrington, were too distraught to talk, Martin said. Their mother, Edith, died 10 years ago of cancer.

Chitjian was assigned to Third Battalion, Eighth Cavalry Regiment, Third Brigade Combat Team, First Cavalry Division based in Fort Hood, Texas.

It was in Texas where he met Shirley, who would become his wife. They married in the summer of 2006, after he returned from his first tour of duty in Iraq. The couple have no children.

Martin said his brother had been a commercial painter since graduating from Northeast Philadelphia's George Washington High School. He had talked of possibly joining a private security firm at the end of his duty in Iraq.

SGT. NICHOLAS A. TOMKO, PITTSBURGH, PA—DIED NOVEMBER 9, 2003

PITTSBURGH-AREA SOLDIER KILLED IN ATTACK IN IRAQ (ASSOCIATED PRESS, NOVEMBER 11, 2003)

PITTSBURGH.—An Army reservist from Pennsylvania who was due home in a little more than a month was killed Nov. 9 when a convoy he was escorting in Baghdad was attacked, Defense Department officials and his father said.

Sgt. Nicholas A. Tomko, a 24-year-old in the 307th Military Police Company out of New Kensington, Pa., was fatally shot in the shoulder and chest when the Humvee he was riding in as a door gunner was attacked by mortar and small arms fire, according to his father, Jack Tomko, and his fiancée, Jessica Baillie.

"He was a great kid, brave as hell, he didn't take no chances, he knew his stuff," said Jack Tomko, 58, of Evans City. "I guess that day he didn't know what was going on or something."

Tomko and Baillie said Nicholas Tomko was scheduled to leave Iraq in 2 weeks and arrive home on Dec. 22.

Baillie, of Shaler, the mother of their 2-year-old son Ethan, said she had talked to Nicholas Tomko on Saturday and was stunned by his death.

"I didn't think it was going to happen, you know, he had too much to come home to," Baillie told Pittsburgh television station WTAE. "We had too much of a future."

Nicholas Tomko, who was working as an armored car driver near Pittsburgh, joined the Army Reserves 3 years ago hoping to get a head start on a career in law enforcement, his father said. He was stationed in Bosnia for 6 months and had 2 months off before his unit was reactivated in February.

Jack Tomko, who served in the Marine Corps from 1966 to 1970, said he and his son didn't talk about the war or conditions in Iraq.

"I told him you don't tell me what is going on, you tell me when you get home," Tomko said.

Tomko described his son as an average boy growing up and remembered how he would occasionally get into food fights with a friend, placing overripe apples and tomatoes on sticks and hitting each other. But he said his son never got into serious trouble.

Baillie said she thought their son was too young to tell about his father's death.

"I'm gonna make sure that Ethan knows that is dad is a hero and that he did, you know, what he wanted to do and that he went over there to fight for his country," Baillie said. "There is nothing negative you can say about that."

STAFF SGT. JEREMY R. HORTON, ERIE, PA—
DIED MAY 21, 2004

PENNSYLVANIA SOLDIER KILLED IN IRAQ
(ASSOCIATED PRESS, MAY 2004)

PITTSBURGH.—A soldier from Erie, Penn., whose tour was extended last year, was killed in Iraq by a roadside bomb, according to his family.

Staff Sgt. Jeremy R. Horton, 24, died Friday near Iskandariyah, Iraq. Defense officials did not release further details, but relatives said Horton apparently was killed when his convoy was stopped for another roadside bomb.

Horton reportedly stepped from his vehicle and a second bomb went off, killing him and wounding three other soldiers, said his uncle, Rich Wittenburg, 54, of Erie. Horton died from shrapnel in his head, Wittenburg said.

Horton joined the Army right out of high school, hoping to get money for college, but ended up finding his place in the military. He was a member of Company B, 2nd Battalion, 6th Infantry Regiment, 1st Armored Division, based in Baumholder, Germany.

"He certainly loved his family and loved his country and loved being in the military. It was what he wanted to do. We need more like him," Wittenburg said.

Horton played both the saxophone and drums in high school and played in bands where he was stationed, his uncle said.

Horton is survived by his wife, Christie, whom he married shortly after joining the Army.

A memorial service was planned for Thursday in Germany and he will be buried June 2 in Erie, his uncle said.

STAFF SGT. RYAN S. OSTROM LIBERTY, PA—
DIED AUGUST 9, 2005

STUDENT REMEMBERS PA. NATIONAL GUARD
SOLDIER AS A MENTOR (ASSOCIATED PRESS,
AUGUST 2005)

When Broc Repard was playing junior high basketball, Ryan S. Ostrom was his coach. But he was so much more.

"He taught people skills as much as he taught basketball," said Repard.

"He was a good leader and a good person to look up to. And he had that special smile we used to see in the locker room."

Ostrom, 25, of Liberty, Pa., died Aug. 9 from small-arms fire in Habbaniya. He was assigned to Williamsport.

"He was a soldier you could give a task to and know it would get done. You could just look at him and know he was a leader," said SSG Craig Stevens.

Ostrom captained his high school's soccer and basketball teams and won a Pennsylvania Interscholastic Athletic Association sportsmanship award. He was a Youth Leader of Tomorrow candidate.

A 1999 high school graduate, Ostrom would have started his senior year at Mansfield

University this fall, studying chemistry. Professor Scott Davis said Ostrom was one of the few science students who aspired to be a teacher.

"He would have been a good one," Davis said.

He is survived by his father, Scott Ostrom, mother, Donna Ostrom, and stepmother, Anice Ostrom.

LANCE CPL. NICHOLAS B. MORRISON,
CARLISLE, PA—DIED AUGUST 13, 2004

PENNSYLVANIA MARINE KILLED IN IRAQ
(ASSOCIATED PRESS, AUGUST 2004)

CARLISLE, PA.—A North Carolina-based Marine killed in Iraq complained about the food and the heat, but nothing else, his mother said.

LCpl Nicholas B. Morrison, 23, Carlisle, Pa., died Friday during hostile action in Iraq's Anbar province.

He joined the Marine Corps 16 months ago and planned to eventually become a state trooper, said his mother, Peggy Morrison, of West Pennsboro Township in Cumberland County.

"He cared about what he was doing," Peggy Morrison said. "He believed in the war. He was afraid, but not afraid to do what was right."

Morrison died when an explosive hit the Humvee in which he was riding, his mother said.

"They were on a scouting mission or something," said Morrison, adding that she expected more detailed information from military officials Monday.

Morrison was assigned to the 2nd Battalion, 2nd Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force at Camp Lejeune, N.C.

"We sent him a digital camera and he'd take pictures during a gunfight," Peggy Morrison said. "We'd holler and he'd say, 'It's not that bad.' I think he tried to downplay it."

Morrison was a 2000 graduate of Big Spring High School, where he was a linebacker on the football team and had many close friends, said schoolmate Matt Swanger, 22.

"He was the glue. When he would come home we would all make an effort to go out," Swanger said. "He would still make us laugh about stories from when we were growing up. I was really looking forward to when he came home."

THE PRESIDING OFFICER (Ms. CANTWELL). The Senator from Florida.

Mr. NELSON of Florida. I ask unanimous consent to speak as in morning business.

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

Mr. NELSON of Florida. Let me say to Senator CASEY before he leaves the floor, the kind of speech he has made is the kind of speech none of us wants to make. It happens with each of us in each of our States. As the Senator from Pennsylvania was speaking, it caused me to reflect back that one of the more painful duties as an active-duty U.S. Army captain in the late 1960s was that of going and informing the family members, next of kin, about the loss of their loved one. That was during Vietnam. That was usually the occasion for the notification of next of kin. How difficult a task it is personally to do it because you realize how difficult it is for the family to receive that news. I thank the Senator from Pennsylvania for his obviously heartfelt comments about the Pennsylvania

citizens who have fallen in combat and for his words and expression of appreciation for the patriotism of these young men and women.

CORAL REEF ECOSYSTEMS

I rise today to speak about another subject, the fact that two of the committees on which I sit have recently reported out important legislation to protect delicate coral reefs off the coast of our country. It is called the Coral Reef Conservation Amendments Act and the Tropical Forest Conservation Act.

Mr. President, 84 percent of all of the coral reef ecosystems in the country happen to be off the coast of Florida. It is important that we protect them because—and a lot of people don't realize this—they protect us. Coral reefs are fragile, slow-going, slow-growing, and long-lived ecosystems. Corals themselves are easily damaged and they are vulnerable to severe weather, ship damage, pollution, nutrification, and changes in temperature. Even with all of those environmental and physical challenges, coral reef ecosystems provide invaluable services to us. They protect our shorelines. They enhance our economies because of all of the wonderful exploration in dive shops. They shelter fisheries, and they are a very valuable ecosystem for a variety of marine life.

Beyond the current ecosystem services and known capacities, coral reefs also hold the promise for new discoveries, new and beneficial drugs coming from the coral reefs, improved understanding of disease and, even now, understanding of new species. As we reauthorize in this legislation the Tropical Forest Conservation Act, we are going to take an important and significant new step to preserving and restoring global natural resources and marine systems. This reauthorization will continue our efforts to preserve the world's forests, the coral reefs, and now the coastal marine ecosystems. This act will create an invaluable debt for nature exchange that benefits both the global economy and the global environment.

We have an aquarium in Tampa, FL that is offering its expertise in coral conservation and coral health certification in these international efforts that are ongoing. Developing countries are now participating in this debt relief initiative, and it will greatly benefit from the research that is going on at the Florida aquarium.

The legislation that is coming forth is a reauthorization that strengthens the authority of the Secretary of Commerce. It gives the Secretary the ability to address threats to coral reef ecosystems in U.S. waters. It expands NOAA's authority to respond to stranded and grounded vessels that threaten the coral reefs. The bill also allows for NOAA to negotiate agreements with coral reef research institutes such as the Institute at Nova Southeastern University in my State in the city of Fort Lauderdale. This bill also provides

mechanisms for the Government to recoup costs and damages from the responsible parties and then apply those funds to coral restoration efforts in damaged areas.

We have another potential devastation of coral reefs. Many of these reefs are right off the Florida Keys. It is an area of endangered, critical concern. There are these beautiful coral reefs that do all of these protections I talked about for the delicate keys: protection from storms, housing the fisheries, a place for research and development with regard to disease, and so forth. But let me tell you about a new destructive potential for the coral reefs. Remember, 84 percent of the Nation's coral reefs are in Florida. Since there is no treaty between Cuba and the United States with regard to the operation of the waters between the two, there have been exchanges between the Government of the United States and Cuba, through the facilities of the Swiss Embassy, an exchange of letters that has been going on for 20 years, designating a line halfway between Key West and Cuba, which is only 90 miles, or a line 45 miles off the coast of Cuba, which happens to be 45 miles off of Key West, as a line at which the jurisdiction of the waters in each respective part is the jurisdiction of that country.

Here is the problem. Cuba, combined with foreign oil companies, now including PDVSA, the oil company of Venezuela, is starting to explore for oil out in the waters off of Cuba. There has been some exploration already near the shore. But unless that agreement is modified, the Venezuelan oil company could be drilling for oil 45 miles off of Key West. Right off of Key West is the gulf stream. The gulf stream comes up through the west side of Cuba and the Yucatan peninsula, goes into the Gulf of Mexico, turns eastward and southward and comes down below Key West, between Key West and Cuba, and then follows the keys northward, hugs the coast of Florida only a couple of miles off the coast, all the way up to the middle of Florida at Fort Pierce, and then turns and leaves the coast of Florida going across the Atlantic and goes all the way over to northern Europe. If we don't call back this letter that most recently the Bush White House has sent to Cuba to ratify the agreement, which is done every 2 years, it gives perfect license for the Castro government to go in and drill. If there is an oil spill that is caught up in that gulf stream, you can see the potential for destruction of the delicate coral reefs all lining the Florida Keys and then right up the east coast of the State of Florida.

I have written to the President today asking him to recall the letter. The letter has been delivered by the State Department to the Swiss Embassy, but it has not been responded to by the Government of Cuba. It is not too late to withdraw that letter from the United States Government setting that boundary, and instead a new letter should be

sent, perhaps with regard to what this initially started a couple of decades ago, on the fishing rights of each country, but one that would exempt out the rights of Cuba to drill in such a dangerous area. At least this ought to be an issue that is negotiated to keep the oil drilling away from the gulf stream which could damage these very coral reefs which I have been talking about in this act, this legislative act which has come out of the committee on which the Presiding Officer and I serve. It is not too late, if the Bush administration will do this. This happened 2 years ago and the Bush administration ignored the calls. But in the last 2 years, it has become much more apparent that oil companies sometimes that may not be safe in their drilling practices are in fact going to drill. The United States needs to have a say in those drilling operations not being out there close to the gulf stream which is only 30 or 40 miles off of the city of Key West which is at the lower end of the Florida Keys.

I come here happily to embrace this legislation protecting coral reefs, but I come here with an urgent message asking the White House to protect our coral reefs by withdrawing this letter sent to the Castro government of Cuba.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, there has been a lot of progress made on this Indian health bill that is now before the Senate. A number of amendments have been filed. The staff are negotiating further provisions and discussing a list of amendments for consideration when we return to the bill.

I extend my appreciation to Senator DORGAN and Senator MURKOWSKI, the chairman and ranking member, for their leadership on the floor.

Many compromises have been made to accommodate my Republican colleagues—on Federal Torts Claims Act coverage of traditional health care practitioners, on urban Indian programs, and on the need for an Assistant Secretary of Indian Health. We even accommodated our colleagues when we learned of their midweek retreat, which has interrupted debate time on this important bill.

The caucuses are discussing some final issues, and I will be developing a list of amendments that we should consider relating to this legislation. I hope these conversations continue so we find a way to complete the bill in a timely and efficient manner.

As an original cosponsor of the Indian health bill, I am committed to seeing an Indian health bill signed into

law and will continue to work with Senator DORGAN, Senator MURKOWSKI, and my Republican counterpart to complete this legislation as soon as possible.

Mr. FEINGOLD. Madam President, I am pleased to support the Indian Health Care Improvement Act Amendments of 2007. This bill is long overdue, and I hope that we in the Senate can ensure this bill's quick passage.

There are significant unmet needs in Indian Country throughout this Nation, and addressing the unmet health care needs ranks as one of the most significant issues that we must address. The Federal Government has a well-established trust responsibility with regard to American Indian affairs, and this trust responsibility extends to providing good health care to communities throughout Indian Country.

I am impressed with the bipartisan work that Senator DORGAN and the Senate Indian Affairs Committee have put into moving this bill forward, and I commend the committee for its dedication to significant consultation with Indian Country in drafting and negotiating this bill. Because of the strong consultation with individual tribes and collective organizations like the National Tribal Steering Committee and the National Indian Health Board, the Senate Indian Affairs Committee has put together a comprehensive reform bill that will help improve the health care services available to American Indians around the country.

This bill has the support of tribal governments throughout the Nation, including the 11 federally recognized tribes in my State of Wisconsin. I have heard from a number of constituents in Wisconsin about the need to pass this important piece of legislation and the improvements that the legislation will make to various Indian Health Service programs including clinical programs, on the various reservations throughout the State and the urban Indian program in the city of Milwaukee.

Health care is consistently the No. 1 issue that I hear about all over my home State of Wisconsin. When I hold my annual townhall meetings across the State, many people come to tell me about problems with our overall health care system, and data shows us that these problems are often most acutely felt in Indian Country. Lack of access to good health care is a problem that disproportionately affects American Indians throughout the United States. According to the Indian Health Service, American Indians and Alaska Natives are 200 percent more likely to die from diabetes, more than 500 percent more likely to die from alcoholism, and approximately 500 percent more likely to die from tuberculosis.

I was disappointed to hear one of my colleagues say yesterday on the floor that American lives do not depend on whether we pass the Indian health care bill by the end of the month. The staggering health statistics I cited earlier show just how imperative it is that we

pass this legislation, which is long overdue. These statistics also help illustrate the vast amount of work that needs to be done to improve the quality of health care in American Indian communities. This piece of legislation takes an important first step toward addressing these health care disparities through the many reforms it makes to Indian health care programs. Contrary to what my colleague asserted yesterday, American lives do depend on this legislation. Modernizing Indian Health Services programs through this legislation will help to address the diabetes and suicide crises that exist on reservations—just two examples of the many health care issues that impact the daily lives of American Indians across the country.

Reauthorization of this bill will help encourage health care providers to practice at facilities in Indian Country and encourage American Indians to enter the health care profession and serve their communities. Recruiting talented and dedicated professionals to serve in IHS facilities, whether urban or rural, is a key challenge facing many tribal communities in Wisconsin and around the country. I hope these provisions will help bring additional dedicated doctors, nurses, and other health care professionals to our tribal populations.

This bill also reauthorizes programs that assist urban Indian organizations with providing health care to American Indians living in urban centers around the country. The Urban Indian Health Program represents a tiny fraction of the Indian Health Services budget, but the small amount of resources given to the urban programs provide critical health services to those Indians living in urban areas. Contrary to what some people may think, the majority of American Indians now live in urban areas around the country, including two urban areas in my State—Milwaukee and Green Bay. Throughout our Nation's history, some American Indians came to urban centers voluntarily, but many were forcibly sent to urban areas as a result of wrongheaded Federal Indian policy in the 1950s and 1960s and have since stayed in urban areas and planted roots in these communities.

As a result of this movement to urban centers, Congress created the urban Indian program in the late 1970s to address the growing urban Indian population around the country. The Federal Government's responsibility to American Indians does not end simply because some American Indians left their ancestral lands and moved to urban locations—particularly when some of them had little choice in the matter.

While this legislation takes important steps toward improving urban Indian health care programs, we need to do much more to support these urban programs, including fighting for increased appropriations. I have been disappointed that the President has pro-

posed zeroing out the urban Indian program in past budgets, and I fear that this year's upcoming budget will be no different. As in years past, I will join with my colleagues in efforts to restore funding for urban Indian programs to the Federal budget, and I hope this year we can also provide a much needed boost in funding for the urban Indian programs.

While this bill is a good first step towards reforming and improving access to health care in Indian Country, I also look forward to working with my colleagues to examine better ways to address the disparities that exist in the funding allocated to various IHS regions, including the Bemidji region, which covers Wisconsin, Minnesota, Michigan, Indiana, and Illinois. According to the latest available data compiled by the Great Lakes Inter-Tribal Epidemiology Center, the Bemidji Indian Health service area has lower funding rates than other Indian Health Service areas around the country. Even though the Bemidji region's funding rates are lower than other areas, the region has higher rates of heart disease and cancer than other regions and has the second worst diabetes rate in the IHS system. Not only do we need to provide more funding for all IHS regions, we also need to better address disparities that exist within the system, and I look forward to working with my colleagues in the coming months to address those disparities.

This bill is a solid first step toward improving access to health care in Indian Country. Unfortunately, the Senate was not able to finish work on this important bill before we had to move to debate another matter. I understand the majority leader has made a commitment to return to the Indian health care bill after we finish that other debate, and I look forward to working with my colleagues to pass the American Indian Health Care Improvement Act Amendments of 2007 in the near future. We need to move forward on this critical bill, and I urge all my colleagues, whether Republican or Democrat, to work together quickly to ensure its swift passage.

Indian Country has made many compromises in order to move this bill forward, and passage of this bill is long overdue. This bill takes important steps toward addressing some of the health care needs facing American Indian communities around the country, and I look forward to working with my colleagues to build on this legislation in the coming months and years. I also hope that we can continue to work together in a bipartisan way to pass the reauthorization of the Native American Housing and Self-Determination Act, work on legislation to address the education needs of American Indian youth, and address other legislative areas in order to help ensure stronger futures for American Indians throughout the country.

Mr. ENZI. Madam President, I rise in support of renewing and reinvigorating

the Indian healthcare programs. For too long, we have neglected our duty to review this program and ensure that it continues to efficiently deliver high quality health care. As a part of that effort, last Congress Senator MCCAIN, Senator DORGAN, Senator MURKOWSKI, and I introduced comprehensive legislation to do just that. I am pleased that a great portion of the bill we are discussing today includes provisions from that bill, S. 4122.

In crafting that legislation last Congress, we kept in mind the 80-20 rule. Eighty percent of the time we were going to agree on a topic. It is only 20 percent that we are going to disagree. Therefore, to gain broad support, we focused on the 80 percent to ensure that it was strong, bipartisan legislation.

However, there are a few ways in which the bill before us deviates from the language in S. 4122. Sometimes, those changes are improvements as we all review the language again. Unfortunately, some issues still remain.

Those issues include Federal liability coverage for traditional healthcare practices. If we don't correct this, the Federal Government could be telling Americans how to practice their own religious beliefs. In addition, we need to more fully understand the appropriate role for providing services to urban Indians. I do think there is middle ground, or a third way—as I like to call it—to be found. In addition, there must be an appropriate offset to the legislation. Given the pay-go rules in both Chambers, in addition to our own Senate procedural hurdles, it is necessary and fiscally appropriate to have a responsible offset.

I have also heard from my colleagues that there are at least two outstanding issues within the Finance Committee's title of this legislation. I hope those can also be discussed and resolved. Specifically, the concerns center around the elimination of Medicaid copays and removal of particular citizenship requirements.

As the optimist and the Senator advocating for the "third way," I am hopeful that we all can continue discussing these issues and come to an agreement as to how we move forward. Individuals depending on the Indian Health Services for their health care deserve no less.

Mr. WEBB. Madam President, the Senate is in the midst of an important debate to extend and improve health care to our Nation's federally recognized Indian tribes. I support the Indian Health Care Improvement Act and I commend all those, including the distinguished chairman, Senator DORGAN, for their work on it.

As we work to extend health care to more Native Americans, some of our oldest and most historically significant Indian tribes will be left outside the process, ineligible to participate in either the health care services or other programs authorized by the Federal Government.

I bring to your attention my strong support of a bill passed last year by the

U.S. House of Representatives, which would grant Federal recognition to six Native American tribes from the Commonwealth of Virginia. That bill is the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, H.R. 1294.

Once the Senate passes that bill and the President signs it into law, these six federally recognized tribes would become eligible for the benefits conferred under the Indian Health Care Improvement Act, which the Senate currently is debating. I hope that the Senate will pass the Indian Health Care Improvement Act this week. Just as importantly, I hope that during this session of Congress, the Senate will pass the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, thereby bestowing Federal benefits to these six tribes that have waited over 15 years for recognition.

The six tribes affected by the Federal Recognition Act are (1) the Chickahominy Tribe; (2) the Chickahominy Indian Tribe—Eastern Division; (3) the Upper Mattaponi Tribe; (4) the Rappahannock Tribe, Inc.; (5) the Monacan Indian Nation; and (6) the Nansemond Indian Tribe.

All six tribes included in the Federal Recognition Act have attempted to gain formal recognition through the Bureau of Indian Affairs, BIA. A lack of resources, coupled with unclear agency guidelines, have contributed to a backlog that currently exists at the BIA. Some applications for recognition can take up to 20 years.

Virginia's history and policies create barriers for Virginia's Native American Tribes to meet the BIA criteria for Federal recognition. Many Western tribes experienced Government neglect during the 20th century, but Virginia's story is different. Virginia's tribes were specifically targeted by unique policies.

Virginia was the first State to pass antimiscegenation laws in 1691, which were not eliminated until 1967.

Virginia's Bureau of Vital Statistics went so far as changing race records on many birth, death and marriage certificates. The elimination of racial identity records had a harmful impact on Virginia's tribes in the late 1990s, when they began seeking Federal recognition.

Moreover, many Virginia counties suffered tremendous loss of their early records during the intense military activity that occurred during the Civil War.

After meeting with leaders of Virginia's Indian tribes and months of thorough investigation of the facts, I concluded that legislative action is needed for recognition of Virginia's tribes. Congressional hearings and reports over the last several Congresses demonstrate the ancestry and status of these tribes. I have come to the conclusion that this recognition is justified based on principles of dignity and fairness. I have spent several months examining this issue in great detail, in-

cluding the rich history and culture of Virginia's tribes. My staff and I asked a number of tough questions, and great care and deliberation were put into arriving at this conclusion.

Last year, we celebrated the 400th anniversary of Jamestown America's first colony. After 400 years since the founding of Jamestown, these six tribes deserve to join our Nation's other 562 federally recognized tribes.

As I mentioned, the House overwhelming passed the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, with bipartisan support. Virginia Governor Tim Kaine and the Virginia legislature support Federal recognition for these tribes. I look forward to working with my colleagues in the Senate, especially those on the Indian Affairs Committee, to push for passage of the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act.

At a time when we are debating how to effectively promote Indian health care, it is important that we grant these six Virginia tribes the access to these essential Federal health programs.

FISA AMENDMENTS ACT OF 2007

Mr. REID. Madam President, I call for the regular order.

The PRESIDING OFFICER. The clerk will report the pending business by title.

The assistant 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.

The Senate proceeded to consider the bill, which had been reported from the Select Committee on Intelligence and the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2007” or the “FISA Amendments Act of 2007”.

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

Sec. 1. Short title; table of contents.

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

Sec. 101. Targeting the communications of certain persons outside the United States.

Sec. 102. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.

Sec. 103. Submittal to Congress of certain court orders under the Foreign Intelligence Surveillance Act of 1978.

Sec. 104. Applications for court orders.

Sec. 105. Issuance of an order.

Sec. 106. Use of information.

Sec. 107. Amendments for physical searches.

Sec. 108. Amendments for emergency pen registers and trap and trace devices.

Sec. 109. Foreign Intelligence Surveillance Court.

Sec. 110. Review of previous actions.

Sec. 111. Technical and conforming amendments.

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SEC. 101. TARGETING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

(a) *IN GENERAL.*—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding after title VI the following new title:

“TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

“SEC. 701. DEFINITIONS.

“In this title:

“(1) *IN GENERAL.*—The terms ‘agent of a foreign power’, ‘Attorney General’, ‘contents’, ‘electronic surveillance’, ‘foreign intelligence information’, ‘foreign power’, ‘minimization procedures’, ‘person’, ‘United States’, and ‘United States person’ shall have the meanings given such terms in section 101.

“(2) *ADDITIONAL DEFINITIONS.*—

“(A) *CONGRESSIONAL INTELLIGENCE COMMITTEES.*—The term ‘congressional intelligence committees’ means—

“(i) the Select Committee on Intelligence of the Senate; and

“(ii) the Permanent Select Committee on Intelligence of the House of Representatives.

“(B) *FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.*—The terms ‘Foreign Intelligence Surveillance Court’ and ‘Court’ mean the court established by section 103(a).

“(C) *FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.*—The terms ‘Foreign Intelligence Surveillance Court of Review’ and ‘Court of Review’ mean the court established by section 103(b).

“(D) *ELECTRONIC COMMUNICATION SERVICE PROVIDER.*—The term ‘electronic communication service provider’ means—

“(i) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

“(ii) a provider of electronic communications service, as that term is defined in section 2510 of title 18, United States Code;

“(iii) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

“(iv) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

“(v) an officer, employee, or agent of an entity described in clause (i), (ii), (iii), or (iv).

“(E) *ELEMENT OF THE INTELLIGENCE COMMUNITY.*—The term ‘element of the intelligence community’ means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

“SEC. 702. PROCEDURES FOR ACQUIRING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

“(a) *AUTHORIZATION.*—Notwithstanding any other provision of law, including title I, the Attorney General and the Director of National Intelligence may authorize jointly, for periods of up to 1 year, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

“(b) *LIMITATIONS.*—An acquisition authorized under subsection (a)—

“(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

“(2) may not intentionally target a person reasonably believed to be outside the United States if a significant purpose of such acquisition is to acquire the communications of a specific person reasonably believed to be located in