behind this request I have, as is the AARP, the AMA, and many support groups around the country. That is now in the RECORD. We put that in the RECORD yesterday.

So this is something we have to do. I would say to my friend, on the 30-day extension, I understand the seriousness of his proposal. I have said many times on this floor, I will not repeat it in detail, I have the greatest respect for the distinguished Senator from New Hampshire. But it is my understanding that there has been an objection to my proposal, and he will go ahead and offer the 30-day extension, to which I will object.

I will be happy to seriously consider it but not too seriously.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a 30-day Medicare extension that is at the desk; that it be read a third time and passed; that the motion to reconsider be laid upon the table.

I think the point is, there are serious reservations on our side of the aisle, and I think legitimately other places, on the way the House has handled elements of the Medicare system in this bill and that is to undermine the ability of many seniors to participate in what is known as Medicare Advantage.

We think there is a better way to do it. We think the Senate can do a better job of this bill, and we think 30 days to work on it makes some sense.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

RESERVATION OF LEADER TIME

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

FISA AMENDMENTS ACT OF 2008—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 6304, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 827, H.R. 6304, an Act to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank our leaders for getting us on this very important bill.

As we have discussed before, the failure to modernize and authorize the Foreign Intelligence Surveillance Act last summer has caused serious gaps in our intelligence capability.

When the Protect America Act that was introduced by our Republican leader, Senator MCCONNELL, and me last year finally passed, we put the intelligence community back in the business of intercepting critical intelligence communications from foreign terrorists talking to each other about possible activities in the United States, or against our troops and our allies elsewhere, and obviously any of those who were threatening the United States.

I can tell you, without going into detail, that the foreign intelligence collection from these has been about the most valuable piece of information we have with respect to terrorist intent. So I appreciate the fact that this body is ready to move forward.

I hope we will have a way forward to get it done by the time we leave for the Fourth of July recess. It is critical we get this done promptly. If we go into late July or even into August without getting it done, serious consequences will start to impact our ability to collect intelligence.

Again, I thank our minority leader, Senator MCCONNELL, for his kind words, especially about my very capable staff who have worked very hard, not only to help put this bill together, but we have briefed Members of both sides of the aisle, their staffs. We have spent a lot of time doing that.

Of course, as I outlined yesterday, we spent a very long 2½ months working with the House. As I indicated, the bill this body passed, the FISA amendments, we passed 68 to 29 in February with the good, strong support of the chairman of the committee, Senator ROCKEFELLER. We worked on a bipartisan basis. We worked with and listened to the intelligence community to do several things that were critical.

No. 1, we wished to make sure there was protection for the privacy and constitutional rights of Americans and U.S. persons here and abroad. For the first time, we included that. We also needed to protect the telephone companies or carriers who have participated in the terrorist surveillance program under the lawful orders issued by the President, under his constitutional authority in article II, an act in good faith by those carriers.

We provided that immunity, or retroactive liability protection, more accurately, that was critical to ensuring that they can continue to participate. They are loyal American citizens, and they wanted to be able to help. But when frivolous lawsuits, seeking billions of dollars in damages, are filed against them, whether they participated or not, and there is no assurance that any telephone company so sued has participated. They cannot use a defense that they did not participate. They have to have protection.

We built in that protection in a way that was acceptable to both sides in this body in the FISA amendments and also satisfied the concerns of the majority party in the House, which, as Leader MCCONNELL said, had the votes, if they had wished to pass our FISA amendments.

We believe this new bill we are considering, H.R. 6304, which passed the House with a strong majority vote of 293 to 129 last Friday, should be passed here.

As with the Senate's original FISA bill passed several months ago, the compromise that is before us required a little give-and-take from all sides. But, in essence, what we have before us today is basically the Senate bill all over again.

I am aware that some on the far left wish to paint this as some radical new legislation. But if you read the language, it is not different. The press picked up on this straight away last week and kept asking me to help them find the purported ''big changes'' in this bill that no one can find. I have not been much help to them because the answer is, there is not much that is significantly different, save some cosmetic fixes that were requested by the majority party in the House.

For example, I am pleased that the strong retroactive liability protections that the Senate bill offered are still in place, and our vital intelligence sources and methods will be safeguarded. I am pleased this compromise preserves the ability of the intelligence community to collect foreign intelligence quickly and in exigent circumstances without any prior court review.

I am also pleased the 2012 sunset, 3 years longer than the sunset previously offered in any House bill, will give our intelligence collectors and those parties we need to have cooperate with us the certainty they need in the tools they use to keep us safe.

I am confident the few changes we made to the Senate bill in H.R. 6304 will in no way diminish the intelligence community's ability to target terrorists overseas, and the Director of National Intelligence and the Attorney General agreed. That had to be the test. They worked with us. They made compromises. When we had a proposal for additional protections for Americans, they agreed. But we had to work out the language to make sure we provided protections without destroying the basic integrity of the bill.

I believe we did that. We did that with the Senate bill, and we did it again with the minor changes the House wanted to make.

Let me address, for the time being, the banner issue of the legislation, which is Congress's affirmation that the telecom providers that may have assisted the Government after 9/11 should have the frivolous lawsuits against them dismissed.

I am confident in the standard of review in title II of the bill on which we agreed with Congressman HOYER and Congressman BLUNT, his counterpart in the House, namely, a ''substantial evidence'' standard, which will ensure that those companies that assisted the Government following the September 11 terrorist attacks obtain the civil retroactive liability protection they deserve.

Unlike the amendment we defeated in the Senate that asked for the court to determine whether the providers acted in ''good faith,'' we affirm in this legislation, as we did in the previous Senate bill, that the providers did act in good faith, and that the lawsuits shall be dismissed unless the judge finds that the Attorney General's actions were not ''supported by substantial evidence.''

The focus is on the Attorney General's certification to the court, not the actions of the providers. We know the providers operated in good faith, and they deserve liability protection. We are allowing, however, the court to review the Attorney General's role in that.

Another way to describe it is that we have essentially provided the district court with an appellate standard of review, just as we did in the Senate bill. Congress affirms in this legislation that the lawsuits will be dismissed, but then we give the district court an opportunity to change that outcome if the judge determines the Attorney General's certification was not supported by ''substantial evidence'' based on the information the Attorney General will provide to the court. So the intent of Congress is clear: the companies deserve liability protections. That principle has been approved overwhelmingly on a bipartisan basis in both the Senate when we adopted our bill in February and the House when it adopted its bill last Friday.

Also, there are clear limits on what documents the court may review and the extent to which parties may participate in legal arguments. Because of these important limitations, I am confident that neither the standard of review nor the court processes will jeopardize liability protections or our intelligence sources and methods. Thus, Congress is again positively reaffirming that these companies should have the lawsuits dismissed.

Mr. President, for the record, I thank publicly these providers—and they know who they are—who came to our Nation's defense in a time of national peril. Thank you for ensuring that our Government could keep Americans safe. Thank you for withstanding years of frivolous lawsuits that you did not deserve. But, unfortunately, that has been your penalty for your patriotism. You are a big factor in why America has not been hit with another terrorist attack since September 11, 2001. You helped keep us safe for nearly 7 years since that terrible day, and you did so without legal relief. I thank you, and those who stand with me today thank you. The least we can do in Congress is to provide you with the legal protections you so rightly deserve.

Now, some Senators would like to strip the providers' civil liability protections in the bill. Some believe the thanks these providers deserve should come in the form of billions of dollars of penalties through frivolous lawsuits that threaten their business reputation. Having reviewed the underlying authorities, the certifications, as one who has practiced a little bit of law in this area, I can tell you there is no way they could or should be held liable for any monetary damages, much less the billions of dollars irrationally requested in the lawsuits.

What these lawsuits do is seek to undermine our program by laying out who participates in it. By getting at the details of the program, we would provide those who seek to do us harm with information on how we collect the information on them that is needed to prevent their attacks. Just as important, bringing them, dragging them through the mud of trials in court would simply assure that their business reputation would be severely damaged in the United States and potentially obliterated abroad. In addition, there is a real likelihood that terrorist activities or other extremists would turn on and attack their property or even their personnel.

I believe seeking to strip liability protection is void of any mature understanding of the threats this Nation faces. That sort of shortsighted pandering to far-left political interest groups endangers our citizens and pays back patriotic service with politically motivated penalty.

I do not join with those who want to treat those who responded to our call for help with disregard and disrespect. I thank the providers for responding to the call, and I will join many others in passing this legislation who will be thanking them with their vote on this important national security legislation.

For those who want to challenge the program, note that we did not ban civil suits against the Government or against any officer of the Government. And criminal suits—if there are any criminal penalties—are not banned. They could be instituted by the appropriate jurisdictions with law enforcement responsibility.

So, Mr. President, there are lots of other points to consider, and when we get on the bill I will be happy to join in discussing any further questions that are raised.

Again, I thank my staff, I thank Senator ROCKEFELLER and his team for having passed the FISA bill. I am very grateful to Mr. HOYER, the majority leader in the House, whose efforts were essential to passing this bill and bringing it to us. We have thanks also for the ranking member of the House Intelligence Committee, PETER HOEKSTRA, who worked with us day in and day out on all of the changes that were requested. LAMAR SMITH, the ranking member of the House Judiciary Committee, he and his staff and his team worked with us throughout.

We have before us not a perfect piece of legislation—I do not think on this Earth we will ever see a perfect piece of legislation. But for the challenges we had to go through and the compromises we had to make, this is the best possible product we can produce that has already gained an overwhelming bipartisan majority in the House. I hope it will also get the same kind of response in the Senate.

Our intelligence community deserves it. The citizens of the United States deserve not only their rights protected, but they need and deserve the protection this act will give them from further attacks like 9/11.

Mr. President, I do not see anyone seeking the floor, so 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. GRAHAM. 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.

Mr. GRAHAM. Mr. President, if I could, I would like to be recognized for 15 minutes to speak on the FISA legislation.

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

Mr. GRAHAM. Mr. President, the Senate is taking up a matter that I think is very important to the American people and our national security, and that is to pass the compromise reached by the House and the administration regarding the FISA program.

I want to briefly lay out my view of how the law works in this area. The initial approach by the Bush administration that there was no requirement to comply with the FISA statute, the Foreign Intelligence Surveillance Act, because of inherent authority of the Executive in a time of war I didn't agree with, quite frankly. The idea that an American would be travailed by an agency of our Government if that American citizen was suspected of being involved with the enemy—a fifth column movement, for lack of a better term—and there would be no court review was unacceptable to me.

If an American citizen is suspected of collaborating with the enemy, I think there is a requirement for the Government to have its homework checked, have a judge authorize further surveillance in a kind of balanced approach. Once there is a reasonable belief that an American citizen may be involved with enemy forces, that becomes a crime of treason, potentially.

I do think it is appropriate for Congress to pass a statute that would say when an American citizen is suspected of being involved with an enemy force, taking up arms against the United States—uniformed or not—the FISA statute applies. The inherent authority of the Executive to conduct surveillance in a time of war is limited, or can be limited by the other branches of Government.

Having said that, this idea that at a time of war you need a warrant to surveil the enemy, when no American citizen is involved, is crazy. We have

never in any other war gone to a judge and said: We are listening to enemy forces—for instance, two suspected members of al-Qaida, non-American citizens—and we need a warrant. You don't need that. That is inherent in the ability to conduct military operations, to monitor the enemy.

Those who want to basically criminalize the war, I disagree in equal measure. We are at war, and there is an effort by our intelligence agencies out there to monitor phone calls and other electronic communications of a very vicious enemy that is intent on attacking us again. That program has been shut down because of this dispute.

We have finally found a compromise which would allow the program to move forward, protecting American citizens who may be suspected of being involved with enemy forces, and also allowing the Commander in Chief and our military intelligence community to aggressively monitor networks out there that wish us harm. In this global world in which we live, the technology that is available to the enemy is different than it was in 1978. So we have modernized FISA and made it possible for our intelligence community to be able to keep up with the different technologies that enemy forces may be using to communicate.

I can assure the American people that this program has been of enormous benefit, the terrorist surveillance program. It has allowed us to stay ahead of enemy activity, and with terrorism you do not deter them by threatening them with death. That is something they welcome. Other enemies in the past have been deterred from attacking America because they know an overwhelming response will come their way. In the Cold War, it was called mutually assured destruction. With terrorist organizations that would gladly forfeit the lives of mentally handicapped young people, and others, you have no idea what they are up to, and you just try to isolate them the best you can. Finding out what they are up to and following their movements is essential because you have to preempt them before they are able to attack.

We have a compromise that has come from the House to the Senate that I can live with. The sticking point was the role our telecommunications companies played in the terrorist surveillance program. It is my understanding that the Attorney General—the chief law enforcement officer of the land—and the Department of Justice gave a letter to the telecom companies involved, saying: Your cooperation with our intelligence communities and military surveillance program is legal and appropriate, and we need your help because a phone call made in Afghanistan, because of the global economy in which we live, may be routed through an American system here, and the two people talking are not citizens, but there may be a telecommunications involvement in terms of routing of the phone call, and we need assistance from the telecom companies to be able to track the technology that exists today that is being used by the enemies of the country.

The idea that somebody would want to sue them because they broke the law, after they have been told by the Department of Justice and the Attorney General their help was needed and it was lawful for them to help, misses the point.

What are we trying to do as a country? Are we trying to avoid the fact that we are at war by talking about lawsuits that undermine the ability of our country to protect itself? I am very much for civil liberties. I don't want any American, as I said before, to be followed by an agency of our Government, suspecting they are cooperating with al-Qaida or another terrorist group, and not have the Government's work looked at by a judge. I would not want that to happen to anybody. If you think anybody who is an American citizen is helping the enemy, you ought to be able to go to a judge and get a warrant. But this idea of having the American telecommunications companies, which were cooperating with the Government in a fashion to help our forces and our intelligence community stay ahead of an enemy, be subject to a civil lawsuit is riduculous. That is not the appropriate remedy.

If we allow these companies who have been asked by their Government, through the chief law enforcement officer of the land, to participate in the program—if we ask them to participate and then sue them, who is going to help us in the future? This is pretty basic stuff for me. If we do not protect these companies from lawsuits that are existing out there, when they were willing to help the Government—if we don't give them protection, nobody in the future is going to come and help us. We need all the help we can get. We need help from banks, telecommunications companies, and we need help from all kinds of different corners of the private sector to beat this enemy. We are all in it together.

The terrorists use banks to funnel money. Well, the banks can help us if we suspect that an account exists that is being used by a terrorist organization. We should be able to track that down. We are all in this together.

The private sector plays a role in the war on terrorism. Every citizen can play a role in the war on terrorism by being vigilant. We finally reached a deal that would allow the program to be reauthorized, protecting civil liberty and telling the telecommunications companies that helped us: You are not going to get sued.

To my dear friend, Senator SPECTER—his solution is to let the lawsuits come forward but shield the companies by having the Government take legal responsibility and be subject to being sued. That is not the right answer either. Our Government wasn't doing a bad thing. Our Government was doing a good thing. Our Government was trying to find out what enemies of this Nation were up to before it was too late.

We have had a lot of warnings in the past that were ignored. How many times do we have to deal with this terrorist problem through the law enforcement model to only wake up and find out that we were wrong? The law enforcement model will not work. The law enforcement model punishes people after they commit the crime. We are at war. Our goal is to keep them from attacking us. The military model is the one we should pursue. In every other war, the private sector itself has helped the Government defeat the enemies of this country.

When Senator OBAMA says he would like this provision taken out of the bill—protection for telecommunications companies from lawsuits—that he would like that taken out of the bill, what he is telling the Senate, the House, and the country is that this deal will fall apart. If we took this provision out, there would be no deal. People like me would not allow this process to go forward—and we had to give some. There was a give on the part of the administration and people like myself. There are some programs that I think are inherent to fighting the war that now have to be reviewed by the court. But that was a compromise.

So for Senator OBAMA to come and say that he would take this provision out is saying that he does not believe in a bipartisan deal on the subject matter in question. The left has gone nuts over there—the hard left. They think this is totally unacceptable. So, apparently, he is going to tell them: I don't support this. I am sure that is what they want to hear. But I say to my colleague, deals require giving and taking. It requires sometimes telling your friends what they don't want to hear. This is an example, in my opinion, of trying to tell your friends what they want to hear and positioning yourself in a way to look good with the public in general.

That is not leadership. Leadership requires the common good to trump special interests. It requires political leaders to turn to their allies at times and say: No, your suggestion cannot win the day because if I give you what you are insisting on having, there will be no movement forward.

Senator OBAMA is willing to give the left what they want. The consequence of that would be that the deal would fall apart because many people like me believe if you allow these companies to be sued for helping their country, then nobody will come forward in the future to help their country from the private sector.

In this war, we are going to need support from the private sector, not only in telecommunications but in banking and other areas. So I hope the amendment to strike the retroactive immunity for telecommunications companies will be defeated because, if it is

passed, the deal fails, the movement forward stops, and America is harmed. I am here to support the deal.

Understand that I didn't get all I wanted, but America will be safer if we can get this program reauthorized. Our civil liberties will be better protected, and the ability to understand what our enemies are up to will be greatly enhanced. Every day that we move forward as a nation with this program being compromised is a day that the enemy has an advantage over us. We know what happens if this enemy is not dealt with firmly and quickly. They are lethal, they are committed, and they will do anything to harm our way of life.

We have an opportunity to come together as Republicans and Democrats and move forward on a surveillance program that is vital to our national security, and those who want to undo this deal because of special interest pressure are not exercising the leadership the American people need in a time of war.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes and that the time be counted against the bill.

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

REFUELING TANKERS

Mrs. MURRAY. Mr. President, 4 months ago when the Air Force announced that Airbus, not Boeing, would supply the next generation of aerial refueling tankers, Air Force acquisition officials declared that the contest had been fair, open, and transparent. They said they made no mistakes, and they boasted that the decision could withstand any level of scrutiny.

The Government Accountability Office called all of that into question in a 67-page decision that shows the Air Force competition was unfairly skewed toward Airbus from the very beginning.

The decision, responding to Boeing's protest of the Air Force competition, was damning. The GAO described the contest as ''unreasonable,'' ''improper,'' and ''misleading.'' It found that the Air Force significantly overestimated the cost of the Boeing tanker, that it misled Boeing while helping Airbus, and that the Air Force selected Airbus even though the company failed to meet key requirements of the contract. It concluded that:

> But for these errors, we believe that Boeing would have had a substantial chance of being selected for the award.

It is unclear at this point whether those errors were due to incompetence or to impropriety. But one thing is definite: This contest was anything but fair or transparent.

I want to know how the Air Force got this so wrong. I have already asked for a meeting with Defense Secretary Gates so he can tell me how the Pentagon plans to respond. I will make it clear that the Air Force cannot go forward with this contract and that I expect it to follow the GAO's recommendations. The Air Force must return to the original request for the proposal, rebid the contract, and get this right.

The difference between what the Air Force said about the acquisition process and the GAO's findings are startling.

On February 29, Sue Payton, who is the Air Force's Assistant Secretary for Acquisition, said at a DOD news briefing:

> We have been extremely open and transparent. We have had a very thorough review of what we're doing. We've got it nailed.

A week later, she told the House Appropriations Subcommittee on Defense:

> The Air Force followed a carefully structured source selection process, designed to provide transparency, maintain integrity, and ensure a fair competition.

And throughout the last 4 months, Air Force officials have insisted that they selected the cheapest plane that best met their criteria and that they made no mistakes.

The GAO's decision paints a very different picture of the contest and, as I said, it raises serious questions about how the Air Force conducted this competition. The GAO found the Air Force made a number of errors that unfairly helped Airbus and hurt Boeing. The GAO found that the Air Force changed direction midstream about which criteria were more important. It did not give Boeing credit for providing a more capable plane according to the Air Force description of what it wanted. Yet it gave Airbus extra credit for offering amenities for which it did not even ask.

The GAO found that the Air Force ''treated the firms unequally'' by helping Airbus at Boeing's expense. The GAO found that the Air Force misled Boeing about whether it had fully met the requirements in the RFP, all the while keeping up conversations with Airbus and giving it the correct information.

The GAO said the Air Force deliberately and unreasonably increased Boeing's estimated costs. When the mistake was corrected, it was discovered that the Airbus A330 actually cost tens of millions of dollars more than the Boeing 767. The GAO said the Air Force accepted Airbus's proposals, even though Airbus could not meet two key contract requirements. First, Airbus refused to provide long-term maintenance, as was specified in the RFP, even after the Air Force asked for it repeatedly. Second, the Air Force could not provide that Airbus could refuel all of the military's aircraft according to procedure.

Let me say that again. The Air Force selected the Airbus A330 even though Airbus refused to agree to a key term in the contract and even though the Air Force failed to show that the A330 was even capable of refueling our military's aircraft by the books.

These are serious findings. No matter how one looks at it, this competition was anything but transparent. Even though the Air Force declared its contest was fair, it appears it had its thumb on the scales for Airbus all along.

But the last findings could be the most damaging of all of them. If Airbus cannot actually prove its tanker can do the job or that it will fulfill its obligations, how can it possibly be awarded that contract?

Today the Air Force is contemplating what to do next. As I said, I think the answer is clear. This contract should be rebid. I agree with those who have said we need to get these planes into the hands of our air men and women as fast as possible. I represent Fairchild Air Force Base in Washington State. Those air men and women fly those refueling tankers. I know how important this decision is to them.

This was not an acceptable acquisition process, and it would be unconscionable to go forward with this selection without first addressing the questions that were raised by the GAO's decision. In order to do that, we must have a competition that is not overshadowed by questions of ethics or competence, and we have to get the right plane.

These tankers we are talking about refuel planes and aircraft from every single branch of our military. They are the backbone of our global military strength. We need a competition where the criteria are clear, where the participants can earn credit that is spelled out in the contract and there is no extra credit that is awarded unfairly, and we need a fair evaluation of all the costs.

We need to go back and start with a clean slate, hold a truly transparent competition that does our air men and women justice. That is what our American taxpayers expect, and our American servicemembers deserve nothing less.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, I am going to talk a little about the FISA amendment and the protection of civil liberties of Americans. Some people who are concerned about this bill don't recognize that there have been enormous changes made that specifically speak to civil liberties, and so I would like to talk about that. I wish to take the time to explain how the negotiators of the FISA bill have taken great care in protecting the constitutional right of privacy of American

citizens in crafting this agreement, which was a heavily discussed and worked over matter.

The FISA Amendments Act of 2008 includes strong protections of civil liberties of Americans while still allowing the Government to collect the foreign intelligence it needs to protect the country, literally. Maintaining this balance between civil liberties for Americans and protecting our Nation against foreign attack was obviously my utmost priority, as well as Senator BOND's, during the lengthy negotiation process that produced what I think is historic legislation in modernizing FISA for the first time in 30 years.

The FISA bill protects Americans in a lot of ways by ensuring FISA Court involvement in any aspect of the new procedure for targeting foreigners outside the United States that could involve U.S. persons. It does so in four significant ways:

First, the bill requires the FISA Court to approve procedures used to determine whether the foreign target of the surveillance is outside of the United States. The court's assessment of the adequacy of these procedures will ensure that the new authorities cannot be used for domestic surveillance.

Second, the bill requires the court to approve the procedures used to address any incidental acquisition, retention, or dissemination of U.S. person information. These procedures protect the privacy of any Americans who might be in contact with a foreign target.

Third, by explicitly asking the court to assess whether the procedures comply with the fourth amendment, the bill requires the court to determine whether the privacy interests of U.S. persons are, in fact, adequately protected.

Finally, the bill requires the court to approve targeting and minimization before collection begins, in most instances. The court would be required to review and approve the procedures at least annually. This is called prior approval, and it was something that was not welcomed by some, but through the negotiation process, the prior approval process was incorporated in the bill, and it means that the court has to approve targeting and minimization before collection. The Director of National Intelligence and the Attorney General would only be able to proceed prior to a court order if emergency circumstances exist but for a period of time no greater than 7 days before being required to seek the approval of the court and no more than 30 days while the court is considering the request. Sometimes, but very rarely, emergencies do take place.

The FISA bill also provides unprecedented new privacy protections for Americans abroad. This may be the most important part. For the first time, Americans traveling or working abroad are entitled to the same protection from surveillance and search that they would have if they were in the United States. There are 4 million Americans at any given moment who are outside of the United States, which is equal to the total population of our Nation when it was founded. The requirement is that the Government obtain a court order prior to targeting them for any foreign intelligence collection. So they get the same type of protection as does anybody in the United States. That is a first. Before, the Attorney General could pretty much just say: We want to target these people overseas, and there was no court involved, there was no approval process involved legally. Now that cannot happen. So they are protected, indeed, the same as anybody in the United States.

The bill requires the court to make an individual determination of probable cause before a U.S. person overseas may be targeted for any electronic surveillance or other foreign intelligence collection. Each court order is valid for no longer than 90 days. This is an important new protection that has never before been in place.

Apart from the court review I have detailed, the FISA bill also protects the privacy interests of Americans through other provisions.

The bill prohibits the new procedure for targeting foreigners outside the United States from being used to target anyone inside the United States or from being used to acquire entirely domestic communication. The way it is now—and it is called reverse targeting—within the United States, you take out of the air some communication of somebody overseas who may be contacting somebody in the United States, and that potentially puts the U.S. person at risk. That is reverse targeting. So there is a prohibition now which explicitly includes reverse targeting, where the purpose of targeting somebody outside the United States is to target somebody in the United States. I know it is complicated, but it is important.

Because of the importance of the prohibitions in the bill, the bill requires the Attorney General to adopt guidelines that ensure that the Government obtains individual court orders when required and does not engage in any prohibited conduct, such as reverse targeting, which, in effect, disappears from the lexicon of telecommunication collection. The bill also requires the Attorney General and the Director of National Intelligence to certify to the FISA Court, under oath, that the acquisition complies with the prohibitions in the bill and that the procedures and guidelines are consistent with the requirements of the fourth amendment.

To ensure there are no unintended consequences relating to when a warrant must be obtained under FISA or how information obtained using FISA can be used, the bill does not change the definition of ''electronic surveillance'' in FISA. It is left exactly as it is. People say: Well, why is that? Everything has changed. Well, there can be legislative authorizations to make changes, but only if those legislative authorizations are made can there be changes in electronic surveillance. So the definition remains the same—a good, solid base.

The bill requires extensive reporting to Congress about the implementation of the new provisions, compliance with the prohibitions in the bill—that is important; we have not had that—and the impact of the new provisions on U.S. persons.

The bill sunsets on December 31, 2012, a date which ensures that the reauthorization of the FISA bill will be addressed, in fact, by the next administration.

In addition to protecting the civil liberties of Americans in the new procedures, the bill seeks to prevent any future circumvention of FISA and to ensure that Congress has a complete set of facts about the President's surveillance program.

Well, one might question: How does that happen? In title III of the FISA bill that is before us, we direct the inspectors general of relevant agencies—and that is a whole bunch of intelligence agencies—to complete a comprehensive review of the President's warrantless surveillance program. Then, within a year, the inspectors general must submit an unclassified report to Congress, with a classified annex, if necessary. This IG review provides an important vehicle for ensuring that a comprehensive set of facts about the President's program is available to Congress and, to the extent the classification permits, to the American public itself.

A comprehensive review of the President's program is particularly important given the possibility the courts will dismiss ongoing litigation due to title II. It also ensures that accountability for the program will be directed at the Government, where it belongs.

To ensure that the Government never again relies on an inapplicable statute to argue that warrantless wiretapping is permissible, the bill strengthens the requirements that FISA and specific chapters of title XVIII are the exclusive means by which electronic surveillance and criminal law interceptions may be conducted. The act provides that in addition to the specifically listed statutes, only an express statutory authorization passed by the Congress for surveillance or interception may constitute an additional exclusive means for that surveillance or for that interception. It is a very strong protection against abuse.

Finally, the bill clarifies that criminal and civil penalties can be imposed for any electronic surveillance that is not conducted in accordance with FISA or the specifically listed criminal intercept laws.

In summary, the FISA bill has a multitude of statutory provisions that provide the judicial and congressional oversight that is essential to protecting the civil liberties of all Americans, both here and abroad. They were

not protected abroad. They are now. The House did not pass this bill because they believed there was an insufficiency of civil liberty protections—and they may have been right. So we hammered these out in long meetings in which the White House, all the intelligence agencies, and the leadership—Republican and Democratic—of the House and the Senate were there.

It is a much stronger bill. People will argue that people like me talk about a balance between being able to collect—which is the only way you are going to know if you are going to be attacked—or civil liberties. So people tend to go all the way this way or all the way that way, not recognizing or not being willing to accept that there can be a balance. We have created that balance in our bill. I am proud of that. It is one of the many reasons I am for the bill.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Alaska is recognized.

HONORING ELLADEAN HAYS BITTNER

Mr. STEVENS. Mr. President, I never thought I would have this occasion, but I want to speak today to honor the life of a great woman, my mother-in-law, Elladean Hays Bittner.

Ellie was born February 1, 1919, in Phoenix during the great flu pandemic. She often remarked on why she had no birth certificate—the hospital did not expect her to survive.

Ellie grew up and worked on her family's ranch in Arizona. She studied home economics at the University of Arizona, graduating in 1939. During college, she rode with the U.S. Army cavalry and was chosen to be a member of the Mortar Board, a national honor society.

Ellie married William-Bill-Edward Bittner in 1944 in Arizona. They honeymooned to Alaska, traveling by Alaska steamship and train to Anchorage to meet her in-laws. In 1950, Ellie moved to Alaska with Bill and their children, Catherine—my wife, William, and Judith. Ellie worked for the Anchorage school district, teaching home ec. She started a boys' cooking class and an early childhood education program.

Governor Hickel appointed Ellie to a position with the Alaska Department of Education. She traveled extensively, interviewing women in remote villages and towns and published a study that was a pioneer effort to identify economic opportunities for women.

Ellie and Bill were very active in Alaska, entertaining frequently at their downtown log house in Anchorage and flying all over the territory in their Cessna 180 with their children.

The family began splitting their time between Alaska and Arizona in the 1970s and Ellie returned to ranching. She established the ''Quien Sabe'' outfit, which she was featured with in 2002 at the Cowgirl Museum and Hall of Fame, and is included in ''Hard Twist'', a book on western ranching women. Ellie remained active in ranching until her death.

She was a great lady. She passed away on June 10 in our hometown of Anchorage, AK, surrounded by her family. I had the honor to be with her for part of that time. I speak for all of us and many more when I say this. There is a hole in our lives that will never quite be filled. Ellie left us with wonderful memories. Through these, she will live on.

Every time I hear Willie Nelson I am going to remember Ellie. She loved Willie Nelson. I think the only difference she had with Willie is she hoped her children, her babies, would grow up to be cowboys.

LEAVE OF ABSENCE

Mr. President, I ask unanimous consent I be excused from attendance of the Senate following today's session, until the first vote in July.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

HONORING WILLIAM SHEFFIELD

Mr. STEVENS. Mr. President, I rise today to pay tribute, on his 80th birthday, to a great American and a great Alaskan, Governor Bill Sheffield. My friend Bill Sheffield was the Democratic Governor of Alaska from 1982–86, which was just a short episode in a lifetime of service to Alaska both in government and in the private sector.

Governor Sheffield came to Alaska in 1953, the same year I moved to our great State, to handle television sales for Sears and Roebuck. His exceptional intellect and work ethic were easily recognized. Quickly, he took leadership positions in the Chamber of Commerce and other business groups in Alaska, eventually becoming president of the Alaska State Chamber of Commerce and, in 2006, being awarded the Lifetime Achievement Award in Business by the Alaska Business Monthly. By 1960, he had entered the hotel industry by purchasing his first hotel in Anchorage. The day before the Good Friday Earthquake in 1964, Bill Sheffield had just opened a new hotel, but it would take more than that earthquake to stop Bill. His hotel business continued to grow until he owned 16 hotels throughout Alaska and the Yukon Territory.

As Governor, Bill Sheffield was focused on ''Bringing the State Together,'' the theme of his campaign. His reputation as a problem-solver and his pledge to unite Alaskans resulted in a landslide victory. Governor Sheffield's experience as a businessman served him and Alaskans well during his time in the Governor's Office. His efforts reduced excessive spending in State government and helped save Alaska's natural resources for the use of all Alaskans for generations yet to come.

After leaving government, Governor Sheffield continued his service to Alaskans, taking seats on several private and nonprofit boards of directors. Currently, he is the director of the Port of Anchorage, where he has developed a master plan for expansion of the port through 2014. Governor Sheffield's vision for this expansion of the State of Alaska's largest port will not only serve Anchorage, but nearly the entire geographic area and population of our State. Mr. President, over 90 percent of the goods that come into my State come through the Port of Anchorage. Furthermore, this expansion will serve the national defense needs of the United States by providing vital transportation support and access to four major military installations in Alaska, including the Stryker Brigade at Fort Wainwright. I am proud to have supported the port expansion project and I am proud of Governor Sheffield and the work he is doing for Alaska and all of the United States.

Governor Sheffield's continuing service does not end with the Port of Anchorage. Additionally, he is a trustee of Alaska Pacific University, a member of the advisory board of ENSTAR Natural Gas, a charter member of Commonwealth North, past chairman of the Federal Salary Council and a member of the board of directors of the Alaska Railroad and formerly the railroad's president & CEO. As Governor, Bill Sheffield was instrumental in saving the Alaska Railroad, purchasing it from the Federal Government and then providing the necessary investment in Alaska's infrastructure to assist in our development. In recognition of his service to the railroad and to the State of Alaska, the Alaska Railroad Depot at the Anchorage International Airport was named after Governor Sheffield in 1999.

Most importantly to Alaskans, Bill is also a skilled fisherman and avid outdoorsman. A love of bush Alaska runs through every aspect of this man. I know firsthand of his love for the bush areas of our home State. He and I have enjoyed many days together out on the water whether fishing for salmon on the Kenai River or elsewhere in Alaska.

In this Chamber today, we see a lot of partisan fighting. One of the greatest qualities of my friend Bill Sheffield is the ability to get past the labels of Democrat and Republican. Bill Sheffield is a lifelong Democrat. While he was the Governor of Alaska and I was here in Washington as Senator, we always found a way to work together. As Governor, Bill Sheffield was able to identify what needed to be done for the greater good of Alaska. More importantly, he pushed aside the partisanship, went ahead and did what needed to be done for Alaskans. In both business and government, Governor Sheffield is a leader and a doer. He is a fine example for all of us. I am honored to count Bill Sheffield a friend and I hope the entire Senate will join me in wishing him a happy 80th birthday. Happy birthday, Billy.

Ms. MURKOWSKI. Mr. President, it is with great honor and respect that today I acknowledge the 80th birthday of a great friend and leader in Alaska. Governor William ''Bill'' Sheffield has

been a leader in business and government for most of the 55 years he has lived in Alaska. He served as Governor from 1982 to 1986, following a business career in which he built a company that became one of the largest private employers in Alaska and the Yukon Territory.

Governor Sheffield came to Alaska in 1953 as a regional sales representative for Sears Roebuck in charge of television sales and service. He became one of the top salesmen in the nation during the 1950s and began his leadership in business groups such as the Jaycees and the Chamber of Commerce. In 1960, he purchased an Anchorage hotel, and founded Sheffield Enterprises. In 1964, literally the day before the great Alaska earthquake of March 27, 1964, he opened a new hotel in Anchorage. This began an expansion that eventually saw his company grow to 16 hotels with 750 employees. He sold the company in 1987 to Holland America Line-westours, one of the major players in Alaska's growing tourism market. While in business, Sheffield served as president of the Alaska State Chamber of Commerce and the Alaska Visitors Association.

As a candidate for Governor in 1982, Bill Sheffield's theme was ''bringing the state together'', a reference to a pair of divisive ballot initiatives that same year. His message of inclusion and cooperation helped him win the governorship in a landslide. Governor Sheffield then turned his attention to curbing the runaway growth in State government, promoting efficient business-style management of public works projects and saving more of Alaska's energy revenues for future generations.

Currently, Governor Sheffield serves as port director of the Port of Anchorage, where he oversees a critical and all-encompassing port expansion. The port is a military strategic port and serves 80 percent of Alaskans with 90 percent of their goods. He is also a trustee of Alaska Pacific University, a member of the advisory board of ENSTAR Natural Gas, and a charter member of Commonwealth North, one of Alaska's leading public affairs forum. He is the past chairman of the Federal Salary Council; recently he received the Lifetime Achievement Award in Business from the Alaska Business Monthly; the former president and CEO of the Alaska Railroad Corporation and now serves on its board of directors. In recognition of his service to the railroad and to the State of Alaska, the Alaska Railroad Depot at the Ted Stevens International Airport was named in his honor in 1999.

Governor Sheffield has always believed that wisdom comes with the experience of making your own payroll. He credits his success in business and government from having the experience of workers depending on him alone for their paycheck.

Lastly, Bill Sheffield, a lifelong Democrat, is one of the best examples of someone who puts partisanship aside, rolls up their sleeves and works with anyone who is also dedicated to achieving important goals for the greater good. Whether in business, politics, education or many other endeavors that have benefited so many people, he is a leader and example for all of us.

I would also be remiss if I didn't mention that Bill is an excellent duck hunter, fisherman and avid outdoorsman. Mr. President, I am proud to call Bill Sheffield a friend and I hope the entire Congress will join me in wishing him well on the 80th anniversary of his birth. Happy Birthday, Bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

STUDENT AID

Mr. BROWN. Mr. President, as I travel my State, I have held close to 100 roundtables of 15, 20 people gathered together as a cross section of the community in some 65 or 70 Ohio counties.

I hear more and more people talking about how difficult it is for middle-class kids, for kids from working families, especially for first-generation and potential first-generation students being able to go to college.

We have made some progress in the Senate in the 15, 16, 17 months since the Presiding Officer and I and others have been in this body. One was the College Cost Reduction Act, an investment in America's students. It was a promise that I and my other freshman colleagues campaigned on 2 years ago. We have delivered.

The increases in student aid that are beginning to go into effect next week are a downpayment of America's future prosperity, on its future competitiveness. This investment could not have come at a better time. With college costs at an alltime high, neither student aid nor family incomes have been able to keep up.

In my home State of Ohio, between 2001 and 2006, the cost of attending college increased 53 percent at 4-year public colleges and universities, and almost 30 percent at 4-year private colleges, 53 percent at public universities, close to 30 percent at 4-year private schools.

During this same period, the median household income in Ohio increased only 3 percent. In the 2004–2005 school year, 66 percent of students graduating from 4-year institutions in my State graduated with student loan debt. The average debt was $20,000.

This bill will help students manage the debt they are incurring and give them more options after they leave school. One of the most important provisions of the bill is a new income-based repayment program that will allow students to pay their debt as a percentage of their income. This initiative, along with the Public Service Loan Forgiveness Program, will help students manage their debt and allow them to pursue careers in public service without fear of student loan payments they simply cannot afford.

In April, I held a Health, Education, Labor, & Pensions Committee public hearing at Ohio State University to discuss student debt issues. One of the witnesses we heard from was a young woman from Cincinnati whose distraught mother wrote me about the crippling debt her daughter had accrued trying to pay for college.

She testified she never believed an education could cost so much and how she worried about how she was going to help her family and advance her career now that she was saddled with so much student loan debt.

As I said, as I travel the State, I hear stories such as these from students and parents who tell me it is becoming harder and harder to afford a college education for those Ohioans, for millions of others across this country. This bill will finally provide some much-needed relief. I would add that as Governor Strickland, the new Governor of the State who has been in office some 17 months or so, has frozen tuition at public universities, which has made a big difference, obviously, in the affordability of college. And coupled with what the State is trying to do now in Ohio, after the State did very little to rein in college costs, coupled with what we are doing here, it will make a big difference, particularly for first-generation students, but for all people who want to go to college whose parents do not make quite enough for them to be able to afford it. This is a major step, a positive step, in changing the direction of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

MEDICARE ADVANTAGE

Mr. DURBIN. Mr. President, pending before the Senate is an important measure about compensating medical providers who treat Medicare patients. Medicare patients, of course, are the elderly and the disabled. This program that was started over 40 years ago reaches 40 million Americans. It is an important lifesaver. It is a lifeline for many people who have reached a point where they can no longer afford to pay for their own major medical bills. Many of these people are on fixed incomes. Many of these folks have no health insurance, other than Medicare. They are desperate to find the kind of care they need.

Medicare, a program that was once criticized as being too much government and socialism, has turned out to be one of the most valuable programs the Federal Government offers. For 40 million Americans, it means they have the peace of mind that when they are sick, there is a place to go and someone to pay for it, that they will not sacrifice their savings and everything they have because of a medical catastrophe. There is a suggestion of cutting the compensation to Medicare providers by 10 percent. The fear is, if we cut that pay to these Medicare providers, fewer doctors will take Medicare patients; they will decide that the economic benefits are with other patients who might be paying more through private health insurance or even out of their own pockets.

We have a deadline. On July 1, this 10-percent cut goes into place. We have been trying, week after week, month after month, to pass in the Senate a provision that will protect these Medicare providers from this proposed cut of 10 percent. Imagine, if you will, that seniors who have doctors' appointments in the first or second week of July call to find that the appointments have been canceled because their doctor no longer takes Medicare patients. I don't want that to happen in Illinois. I don't think it should happen anywhere across this country.

A bill comes through the House of Representatives which proposes that we stop this 10-percent cut and make sure Medicare does not suffer this change and that the Medicare beneficiaries are not disadvantaged. The vote was called earlier this week in the House of Representatives. The final vote was 355 to 59. By a margin of 5, or 6 to 1, a bipartisan vote in the House of Representatives, they voted to take care of this problem and do it now before the July 1 deadline kicks in. The bill that passed in the House is supported by physicians, consumer groups, pharmacists, hospitals, and many others. Who opposes this bill? Two groups. I should say two entities—the health insurance industry and the White House. Why? Because the bill provides for savings from private fee-for-service Medicare plans. In other words, the additional 10 percent that is going to be paid to these Medicare providers, part of it at least is offset by saying that private health insurance companies are going to receive less in reimbursement for treating Medicare patients.

Why should they receive less, you ask? Because the so-called Medicare Advantage plans, private health insurance plans providing benefits that look a lot like Medicare, charge more than the Medicare plan, 12 to 13 percent more. Those aren't figures dreamed up by Congress. They come to us from the executive branch of Government. We suggested some savings in the amount of money paid to private health insurance companies and the resistance comes, obviously, from those companies, the White House, and this morning from the Republican side of the aisle. They refuse to let us cut any reimbursement to the private health insurance companies that charge more for the same services that Medicare is providing.

So we have reached an impasse. It is an impasse that has to be broken to the benefit of Medicare beneficiaries. I think we should be guided in breaking it by what happened in the House of Representatives by a vote of 355 to 59. Private fee-for-service plans are paid more than what it costs to treat the same Medicare patient in the traditional Medicare Program. We are paying these private insurance companies more than the ordinary Medicare reimbursement.

For some on the other side of the aisle, this is all well and good. They want to privatize Medicare. They want to end this so-called Government health insurance plan. I am not one of those. After more than 40 years of success in Medicare, I don't want to see this program go away. This program has been a lifeline when all else has failed. Medicare Advantage plans, those private health insurance company plans I talked about, cost taxpayers, on average, 13 percent more than Medicare for the same benefits. Private fee-for-service Medicare Advantage costs even more, 19 percent. This payment disparity gives private fee-for-service plans a competitive advantage over traditional Medicare. In other words, they can offer a little bit more, some bells and whistles, and they charge dramatically more when it comes to billing taxpayers and the Government for their services. We are trying to trim that back a bit.

The howls and screams from the other side of the aisle come because they want to protect these private health insurance companies. These unjustified higher payments are fueling large increases in enrollment in these types of plans that charge more because they offer a little bit more here and there. Even CMS has been concerned about the marketing practices of these private fee-for-service plans. Understand, these private health insurance companies, trying to enroll Medicare beneficiaries into their private health insurance alternative to Medicare, are going door to door, using telephone, mail, soliciting many seniors. Some of them are misled. Some of them are confused by the solicitations. There is outright fraud taking place. There have been numerous reports of sales agents using strong-arm tactics to enroll Medicare beneficiaries in these plans without the beneficiaries understanding how the plans differ from traditional Medicare.

Yesterday, the Government Accountability Office released a report that shows that private Medicare Advantage plans spent less on medical care than they report to the CMS which, in turn, earned them $1.14 billion in additional profits over what was expected. This is money going directly into the pockets of the insurance industry, not for the health benefits of Medicare patients. This report confirms the deal that was offered to Medicare beneficiaries and American taxpayers by these private plans is even worse than we thought. Yet today, on the Republican side of the aisle, they are objecting to this fix in Medicare to protect these private health insurance plans that have been found over and over again to charge too much, to be abusive in their marketing and, frankly, to provide less medical care than they promised.

In this report, for the first time in the history of the Medicare Advantage Program, GAO compared the private plans' projected spending on medical care and profit margins with their actual profit margins and spending on medical care. They found that in 2005, the Medicare Advantage plans projected spending 90.2 percent of total costs on medical services but actually spent 85.7 percent. By spending less on helping Medicare patients, these plans increased their profits. That is what it is all about—giving the Medicare patients as little as possible.

These private health insurance plans are big winners when it comes to making money but at the expense of medical care for the Medicare patients. These are the same companies Republicans are trying to protect by objecting to our fixing this Medicare reimbursement problem.

It is a shame we are putting the health of America's seniors on the line for the profit of a handful of private insurance companies. The Bush administration is disguising the truth. They claim the Medicare Advantage plans are helping, when they aren't doing a good job. This GAO report is more evidence of waste and abuse in this program, evidence which those who object to our moving forward refuse to even read or acknowledge. The changes in this bill are modest. They are nowhere close to payment cuts the House approved earlier this year. What Republicans and the White House are objecting to is taking away another special advantage that private fee-for-service plans have been given, the ability to deem a doctor or hospital as part of its necessary work. This bill merely requires private fee-for-service to enter into contracts with health care providers, as all other private Medicare plans already do. This reform is good for patients, good for health care providers, and good for taxpayers.

The overwhelming vote in the House for this bill shows Congress will no longer allow the Bush administration, as it is packing to leave town over the next 6 months, to protect the health insurance industry at the expense of Americans, our families, and Medicare beneficiaries.

I urge my colleagues, support the Medicare Program, make sure Medicare providers are adequately funded. Don't stand in defense of private health insurance at the expense of this valuable program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

UNANIMOUS CONSENT REQUEST—H.R. 2264

Mr. KOHL. Mr. President, I rise today to ask unanimous consent that the Senate take up the No Oil Producing and Exporting Cartel Act, NOPEC. This legislation will authorize our Government, for the first time, to take action against the illegal conduct of the OPEC oil cartel. It is time for the U.S. Government to fight back on the price of oil and hold OPEC accountable when it acts illegally. Our amendment will hold OPEC member nations to account under U.S. antitrust law when they agree to limit supply or fix price in violation of the most basic principles of free competition.

NOPEC will allow the Attorney General to file suit against nations or other entities that participate in a conspiracy to limit the supply, or fix the price, of oil. In addition, it will specify that the doctrines of sovereign immunity and act of state do not exempt nations that participate in oil cartels from basic antitrust law. This legislation will not create any private right of action nor require any action by the Attorney General, it will simply give the administration the option to bring an antitrust action against OPEC member nations. Passage of this legislation will mean that OPEC member nations will face the possibility of real and substantial antitrust sanctions should they persist in their illegal conduct.

I have introduced this legislation in each Congress since 2000. This legislation passed the full Senate by a vote of 70 to 23 last June as an amendment to the energy bill before being stripped from that bill in the conference committee. The identical House version of NOPEC passed the other body as stand alone legislation in May 2007 by an overwhelming 345 to 72 vote. It is now time for us to at last pass this legislation into law and give our Nation a long needed tool to counteract this pernicious and anticonsumer conspiracy.

As we consider the causes of rising gas prices—now exceeding the once unthinkable $4 per gallon level, up 74 percent since the beginning of last year—one fact has remained conistent—any move downwards in price ends as soon as OPEC decides to cut production. And whIle the OPEC nations enjoy their riches, the average American consumer suffers every time he or she visits the gas pump or pays a home heating bill. The Federal Trade Commission has estimated that 85 percent of the variability in the cost of gasoline is the result of changes in the cost of crude oil.

The most fundamental principle of a free market is that competitors cannot be permitted to conspire to limit supply or fix price. There can be no free market without this foundation. And we should not permit any nation to flout this fundamental principle.

Mr. President, the suffering of consumers across the Nation in the last few years has made me more certain than ever that this legislation is necessary. When I first introduced this legislation in June 2000, the worldwide price of crude oil was $29 per barrel. It has now more than quadrupled. How much longer must consumers wait for us to take action? I believe we need to take action now.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 169, H.R. 2264, at a time to be determined by the majority leader, following consultation with the Republican leader, and that the bill be considered under the following limitations: that no amendments be in order to the bill; that there be 2 hours of debate, with time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of the time, the Senate proceed to vote on passage of the bill without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

CLEAN ENERGY

Mr. ENSIGN. Mr. President, in the last few days, we have been talking about the housing bill. Last night I got to speak as I had the day before about an amendment I have been trying to get onto the housing bill. I would like to speak about the importance of that amendment, once again.

This country is facing high energy costs right now, with gasoline over $4 a gallon. Home heating oil is being affected by the price of energy. Natural gas prices have gone up by over 70 percent. It is affecting literally every single family and business in the United States. We need to have a broad-based approach to finding all the sources of American energy we can possibly find to help make us less dependent on Middle Eastern oil and other energy supplies coming from outside the United States. It is important for our national security, and it is also important for our economic security.

The amendment I wanted to offer to the housing bill deals with alternative renewable energies. These are energies such as solar, wind, geothermal, and many others. This amendment is identical to a bill Senator MARIA CANTWELL, a Democrat, and myself worked on together. In total, 45 Members have cosponsored this bill. We actually offered this legislation as an amendment to housing bill the last time that bill was on the Senate floor in April.

At that time, our amendment passed with 88 yea votes and only 8 nay votes. Rarely does something around this body pass 88 to 8 in such a bipartisan fashion in these partisan days. We should take advantage of that bipartisanship and do something right for the American people.

Not only do we want more American energy, but whenever we can, we should certainly try to incentivize bringing more green energy to the United States. That is the reason we introduced this bill, and it is the reason there was such a strong vote on it.

There have been a couple of objections as to why we should not include this amendment on the housing bill. It has been said that this amendment has nothing to do with housing. I would beg to differ. First of all, the stronger the economy, the more people will be able to afford to buy and retain homes. This renewable energy tax bill literally will produce probably 100,000 to 200,000 jobs in the United States and billions of dollars worth of investment in the United States. When people have jobs, there is a better chance they can afford homes.

Second, there are many provisions in our renewable energy tax bill that directly relate to housing. My amendment provides incentives to expand energy efficiency in new homes, existing homes, and appliances used in homes. For example, if you want to invest in solar energy in your home, if you want to help the country out by taking some of your electricity demand off of the power grid and actually produce your own electricity with solar energy in your home, we have tax credits to encourage this activity. If somebody is building a more energy-efficient home, we have tax credits in there to do that. In addition, we encourage the production of more energy-efficient appliances for your home. So this amendment is directly related to housing.

One of the other provisions the managers of this bill—and especially the Democratic leadership—do not want this amendment attached to the housing bill is that it is ''not paid for.'' Well, there are already $2.4 billion in tax-related items that are not paid contained in this housing bill. I will not go into the details because they are fairly complicated, but know there is almost $2.4 billion in unpaid-for tax incentives in this bill.

The Democratic manager of this bill said the Democrats in the House of Representatives would not go for our particular renewable tax credit legislation because it was not paid for, that there were too many Democrats in the House of Representatives who would object to it. Well, how do they expect $2.4 billion in other tax incentives that are not paid for to be accepted over there and then argue that ours would not be accepted as well? So I think we should do absolutely everything we can at this time—with high energy prices on gasoline, home heating oil, and natural gas going up in the United States—we should do everything we can to get Senator CANTWELL's and my amendment on renewable energy tax credits put onto this housing bill.

Another reason it is important to have this amendment on this bill, instead of waiting for another bill in the future, is that a lot of the contracts and the financing of renewable energy projects—whether they are solar, geothermal, wind, or any of the other

clean energy we have in the United States—it is critical for the financing of these projects that we have predictability and we get the Clean Energy Tax Stimulus amendment done as soon as possible. For each quarter that passes—and the Senator from Washington has spoken eloquently about this—that is more projects that do not get financed. Projects will not always be financed in the future if they have lost their financing now. Investors lose confidence.

So we need to have predictability, and we need to enact my amendment soon as possible. The housing bill, everybody around here knows, is going to be one of the few bills that will be signed into law this year. So we need to have the renewable energy tax credits on a bill that is going to be signed into law. If we actually care about advancing use of renewable energy in this country, if we care about jobs in the renewable energy sector of our economy, then we need to have this amendment passed into law.

The Democratic leader has already said he is going to pull the bill and we are going to come back to the housing legislation after the Fourth of July break. I encourage all Americans to contact their Senators and Representatives in the House, and let their voices be heard that this is an important issue to them. Write in, e-mail—do all the types of things that are necessary to participate in our democratic process, to say yes to renewable energy, to say yes to jobs in America.

Let's put this amendment on the housing bill when we get back after the Fourth of July recess. Let's do it as quickly as possible. Let's get the House of Representatives to cooperate with us on something that is good for America. I happen to be a Republican Senator but this is a bipartisan issue. In fact, this should be nonpartisan. This should be something that is done forgetting about whether you are a Republican or Democrat. Let's do something that is good for America. Let's do more of that around this place, and I think we will all be better off for it.

I conclude by imploring my colleagues: Think about this during the break. Think about what is at stake with the tens and tens of thousands of jobs, the billions of dollars in investment in renewables, and the chance that we can do something good for America and bring more green energy, more clean energy to the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

PAUL LAURENCE DUNBAR

Mr. BROWN. Mr. President, I rise today to honor the birth of Paul Lawrence Dunbar.

It was the African-American poet Maya Angelou who made the verse ''I know why the caged bird sings'' widely famous, but it was Paul Laurence Dunbar from Dayton, OH, who penned that powerful poem more than a century ago. That seems to be the true story of Paul Lawrence Dunbar, as a trailblazer who paved the way for later generations of African-American poets and writers.

While academics continue to debate Dunbar's stature in the pantheon of American poets, there is wide agreement that he is a seminal figure in African-American literature, the first to achieve national—and some would argue international—recognition among African Americans.

Paul Lawrence Dunbar was born into meager circumstances in Dayton, OH. His birthday we honor tomorrow on June 27, 1872. He was the son of former slaves who escaped to freedom. He was raised by his mother Matilda, who had little to give him in terms of material wealth. Her job as a washer woman provided little more than food and clothing for Paul and his four brothers and sisters. Instead, she instilled in him something much greater. Paul's mother taught him the arts of song and storytelling and instilled in her son a lasting love of poetry and literature. Because of his mother, the poet fell in love with the power of words at a very early age, some accounts having him reciting and writing poetry as early as age 6. This love for literature grew over the years as his mother encouraged him to read and reinforced the importance of school.

By the time young Paul reached high school, he was the only African American in his class at Dayton Central High. While he faced so many difficulties because of his race, he achieved so much during this time in his life. In the face of prejudice, he became a member of the debating society, editor of the school paper, and president of the school's literary society. Working with his classmates and his friends in Dayton, Orville and Wilbur Wright, Paul Laurence Dunbar published an African-American newsletter. All the while, he helped support himself by working as an elevator operator in Dayton's Callahan Building.

Dunbar's birthday, June 27, came to be a very important day for the poet, as it was on that day when his abilities to write were first showcased in his hometown and then many years later again on his birthday when he received national recognition—it was June 27, 1892, when giving the opening welcome before the Western Writers Conference at the Dayton Opera House.

As the story goes, Paul was asked by his teacher Helen Truesdell only days before to give the opening remarks. He was nervous not only about writing the remarks but also about enough time away from his job as an elevator operator to give them.

As Jean Gould describes in her book, ''That Dunbar Boy'':

> Speaking to the Western Writers Conference afforded Paul his first opportunity to be heard by writers beyond the Dayton region, a special birthday gift that began the launching and the cementing of his writing career. His welcoming address received a burst of eager applause as he bowed and made a dash for the backstage exit of the Opera House—he was due back at the Callahan Building as the elevator operator in just 10 minutes!

This experience for Paul underscored his love of writing and his desire to make it his career. Soon after, he published his first book of poems, ''Oak and Ivy.''

It was on June 27, 1896, that William Dean Howells, a prominent literary critic of the times, published a column in Harper's Weekly enthusiastically praising Dunbar's second book, ''Majors and Minors.''

Howell stated:

> There has come to me from the hand of a friend, very unofficially, a little book of verses, dateless, placeless, without a publisher, which has greatly interested me.

So that established Dunbar as a national literary figure. From there, he went on to write four collected volumes of short stories, four novels, three published plays, lyrics for 12 songs, 15 books of poetry, 400 published poems, 200 unpublished poems, uncounted essays on social and racial topics in periodicals and newspapers in a career of less than 13 years.

Literary critics to this day continue to debate Paul Lawrence Dunbar. It has been argued that the author should be considered one of the earliest crusaders for equal rights and that his work belongs in the long tradition of protest writing. Other critics argue against this sort of designation—a controversy that speaks to the complexity and richness of his writing.

There is no debate that Paul Lawrence Dunbar and his works have enriched the history and character of his hometown, Dayton; his State—my State—Ohio; and our great country. Paul Lawrence Dunbar is known throughout the world for his literary genius. He is recognized as a man of humanity and integrity and determination, thus becoming the first African American to be accepted by the discipline of American literature.

Tomorrow, actually, is the date of his birth, but I stand today to honor this Ohioan and his work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is postcloture on the motion to proceed to the FISA bill.

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

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

ZIMBABWE ELECTIONS

Mr. KERRY. Mr. President, we are known happily as the world's greatest deliberative body and the world's greatest democracy. There are times when I have been here when we have indeed lived up to that reputation, and it has been exciting and rewarding. We also are blessed to serve in an institution where very frequently we extol the virtues of our commitment to spreading freedom around the globe. We take that seriously. I don't think there is a Senator here who doesn't believe in our responsibility to do that and who isn't proud of America's role in being able to do that in many parts of the world where we have made a difference.

However, in recent days here in Washington, the news earlier this week that Morgan Tsvangirai, the leader of Zimbabwe's main opposition party, was forced to withdraw from a runoff election that was scheduled for tomorrow, that news was regrettably met by an absence of the kind of outrage that it demands and, frankly, by an absence of action of any kind in the global community.

It is important for the Senate, in my judgment, to forcefully condemn a shockingly brutal campaign, an overt, visible for everybody to see, disdainful, arrogant campaign of violence and intimidation that has been launched by President Robert Mugabe and his henchmen which rendered free and fair elections in Zimbabwe impossible.

Morgan Tsvangirai's courageous decision not to put his supporters at further risk in an election that Mugabe explicitly said he would not respect if he did not win ought to be a wake-up call for the world and especially to the African leaders who have the most influence over Zimbabwe.

Action is long overdue. For months now, Mugabe's thugs have savaged opposition politicians, civil society activists, and anyone else who dared to dream of a peaceful end to his rein of terror. Villagers have literally been handed bullets by soldiers and told to choose between democracy or their lives.

Since the initial balloting in March, the MDC—the Movement for Democracy—believes that at least 86 of its supporters have been killed, over 10,000 have been injured, 2,000 unlawfully detained, and 200,000 have fled their homes. In fact, the details of this campaign of violence and intimidation are even more horrifying than the statistics convey. Women have been burned to death. Young men have been tortured and dismembered, and the elderly have been savagely beaten.

In fact, it is hard to imagine a campaign of political murder as brazen and visible to everybody as the one that has been unleashed on unarmed innocents, with a sense of complete inability to be touched by any civil forces outside. Mugabe very matter of factly stated last week:

> We are not going to give up our country because of a mere X on a ballot. How can a ballpoint pen fight with a gun?

I believe someone with that kind of attitude—willing to strip away democracy that all of the African nations, European nations, civilized nations of the world, and United Nations have agreed is the right of the people of Zimbabwe—that kind of attitude deserves the outrage and action that it asks for.

We know that even if Tsvangirai had not withdrawn, there was a unanimous consensus that Mugabe would have stolen the election by simply rigging the ballots. Once again, this unapologetic dictator telegraphed his intentions, saying that only God, not the voters of Zimbabwe, could remove him from office.

Democracy in Zimbabwe is not the only casualty of the news this week. Every bit as damaged, frankly, is the moral authority of the international community. Make no mistake, Mugabe is thumbing his nose at the international community. Daring them, with a sense of complete impunity, he is inviolable in whatever thuggery he wants to engage in. That is because he has heard the world say ''never again'' again and again. Then he has watched the world engage in collective handwringing as mass atrocities unfold and nothing happens, just like the last time.

Well, this can't be allowed to continue. Until recently, there was little hope of vigorous international response. But Tsvangirai's selfless act of courage hopefully now can act as a catalyst for change.

On Monday, the United Nations Security Council, including China and Russia, issued its first condemnation of violence, acknowledging it would be impossible for a free and fair election to take place. A day later, some of Africa's influential leaders called Mugabe out for the savagery of his intentions in this free election process. That has now made it, thankfully, more difficult for him to try to disguise the violence as a struggle against postcolonial bullying. Yesterday, that international community demanded that he postpone the runoff elections and negotiate with Tsvangirai.

Just yesterday, on his 90th birthday, Nelson Mandela lent his voice of moral authority to condemn what he called the ''tragic failure of leadership in our neighboring Zimbabwe.'' Those are strong words, and I think obviously those words—coming from Nelson Mandela, the former President of South Africa and really founding President of their democracy today—those words diminish Mugabe's legitimacy.

Obviously, words aren't going to save Zimbabwe's people. The international community needs to take action, and it needs to take action that sends the regime in Zimbabwe a simple, unequivocal message: Mugabe must go. If he thinks only God can remove him and shows such extraordinary disrespect for the people of his country, clearly the international community has a responsibility to make it impossible for him to do anything else but go.

The Senate passed a resolution that I submitted in late April, but, frankly, resolutions don't get the job done. They indicate an intent, a desire by the Senate, perhaps; they indicate that we are taking notice of what is happening. But this is now a matter of life and death. It is also a matter of the credibility of the international community.

If words such as ''never again'' with respect to a holocaust mean something or if the lessons of Bosnia, Herzegovina, and the other disruptions that we have seen in other parts of the world mean anything, then we have to do whatever is necessary to be able to bring about a timely end to the violence and a peaceful transition to democracy.

The U.N. Security Council needs to impose, immediately, quickly, targeted sanctions on Mugabe. It needs to impose them on his cronies and his family. It needs to make it clear to them that they cannot do what they are doing with impunity. Freezing bank accounts and imposing further travel restrictions are punishments that may lead those around Mugabe to begin to reassess their own self-interests, without doing harm to the people who have already had harm done to them by this dictatorship.

The real leverage and legitimacy to motivate, mediate, and monitor a negotiated solution lies in the heart of Africa itself. The Southern Africa Development Community and the African Union have, frankly, too often been willing to sit on the sidelines. They need to play a sustained and active role in resolving this crisis in a way that respects the will of Zimbabwe's people. They need to do that now with the help of the European Community, ourselves, and the U.N. itself.

If Mugabe refuses to step down, both the Southern African Development Community and the African Union should suspend Zimbabwe's membership immediately and consider applying their own sanctions. I met the other day with the ambassadors from Botswana in South Africa and Zambia, and they agreed that if Mugabe stays now in a situation where he has nullified unilaterally the ability to have an election, he is, in fact, an unconstitutional leader of the country. Under the charter of the African Union, the Constitution, they would be completely within their rights—in fact, it would be imperative that they move to isolate him because he no longer would be a legal leader of that country.

The United States and the European Union need to stand squarely alongside African governments in withdrawing recognition from the illegitimate Mugabe regime and impose additional sanctions targeting his criminal cabal. Until recently, a few African leaders have proven to be an obstacle to the crisis. South Africa's President Thabo

Mbeki is perhaps the most prominent example, sadly. I think many people had a much higher expectation of President Mbeki. I have known him and worked with him. I regret that in this situation Mr. Mbeki has chosen to ignore the warnings of his predecessor and icon and of others. It has been some time now that the world has been waiting for Thabo Mbeki in South Africa to weigh in squarely with respect to Zimbabwe's future.

I believe President Mbeki is going to be judged by history for his response to this crisis. As the leader of the region's powerhouse in the southern African community, the development community's mediator in this crisis, President Mbeki still has an opportunity to turn up the heat on Mugabe, while also helping facilitate a respectable way out.

The world cannot afford for President Mbeki to remain out of step with other countries in the region, not to mention his own political party, in condoning Mugabe's brutality. If he chooses to continue on this ineffectual path, then President Mbeki will remain, in fact, complicit in the tragic events in Zimbabwe and risk isolating himself internationally, as well as in his own country. If Mugabe surrenders and a genuinely democratic government, committed to implementing the needed economic and political reforms, is formed, Zimbabwe's new leader will be left to pick up the pieces of an economy that has been run into the ground by Mugabe.

Annual inflation is reportedly running at over 150,000 percent. Unemployment stands at over 80 percent. Hunger grips 4 million people. An estimated 3,500 people die each week from hunger, disease, and other causes related to grinding poverty. The United States and the international community must be prepared to provide a comprehensive, economic, and political recovery package that will help the people recover from so many years of abuse and neglect.

Right now, our most urgent challenge is to protect the innocent people in Zimbabwe who have been devastated by violence, starvation or inadequate access to essential care and services. We need to do that by pushing Africa's leaders to restore and expand humanitarian aid, deploying a civil protection force to prevent attacks, help victims, and pursue vicious criminals. Matching words with action is a great challenge of this body, the Senate, and particularly it is the responsibility of this administration. This is a test for our collective moral authority, our willingness to lead with our values, and a test of whether we are going to send the strong, necessary message to the people of Zimbabwe, and indeed the people in all of Africa, that we support their aspirations for a free and democratic country.

We are losing lives almost every single day in Iraq. We are spending $12 billion a month. We invaded that country, purportedly, to bring them democracy. We support other countries in the Middle East—Lebanon and others—that are struggling to have democracy. We can't be regionally selective about where the virtues of democracy make a difference. In Africa, where for too long people have been neglected, even abandoned—and too many times they believe the rest of the world doesn't care—this is an opportunity for us to send a different kind of message and make a different kind of difference. I hope they will know that the free world will stand with the aspirations of those who are willing to risk their lives to have a better future and to actually give meaning, through our support, for free elections and democracy everywhere in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

WINNING IN AFGHANISTAN

Mr. CASEY. Mr. President, today, I rise to convey my growing concern—and I think the American people share this concern—on an issue that the three major television networks' evening newscasts devoted just 46 minutes of coverage to so far this year: The war in Afghanistan.

The White House has become distracted and weighed down by the war in Iraq. It has knowingly ignored dealing with the real threats that endanger American interests. It is time now to refocus our efforts and concentrate on the real front in the war on terror, and it is time to get serious about winning in Afghanistan.

The United States has one overarching priority when it comes to this region: to ensure that al-Qaida or any other terrorist group does not gain the sanctuary it requires to plot, plan, or train for another terrorist attack on American soil or against our allies.

However, despite some 62,000 NATO troops in Afghanistan, including approximately 34,000 American forces, and more than 140,000 Afghan troops and police, Taliban and al-Qaida forces have regrouped and become stronger over the past 2 years. Finding sanctuary in the southern and eastern parts of the country and along the border with Pakistan, Taliban and pro-al-Qaida forces are threatening to undermine hard-fought international efforts to bring stability and peace to Afghanistan.

The assessment from our top experts in the field is bleak. Retired General James L. Jones, who until the summer of 2006 served as the supreme allied commander of NATO, found in one report that:

> NATO is not winning in Afghanistan. . . Afghanistan remains a failing state. It could become a failed state.

2007 was the deadliest year since the fall of the Taliban, with over 6,000 people killed. Violence continues in 2008. Secretary Gates reported in May that for the first time, more coalition troops were killed in a month's fighting in Afghanistan than in Iraq.

As of this week, at least 451 members of the U.S. military have died in Afghanistan, including at least 20 from my home State of Pennsylvania. Overall, violence has risen 27 percent in Afghanistan in the past year, with a 39-percent increase in attacks in the eastern region—where most U.S. troops operate—and a 60-percent surge in Helmand province, where the Taliban resurgence has been the greatest. Suicide bombings rose to 140 in 2007, compared with 5 between 2001 and 2005.

The news in recent days has also been especially troubling. Over the weekend, militants operating in sanctuaries in Pakistan launched rocket and artillery attacks into Afghanistan killing four Afghan civilians, including two children. NATO forces, whose patience has been repeatedly tested by escalating insurgent violence along the Afghan-Pakistani border, have since retaliated by shelling guerrillas along the Pakistani border.

Last week, hundreds of NATO and Afghan forces engaged in one of their biggest battles in years against approximately 400 Taliban fighters in Kandahar. These fighters had bombed the main city jail and freed hundreds of their comrades. One report says that those who have been freed are among the most dangerous.

These setbacks emerged as the Government Accountability Office, GAO, released its latest report concluding that despite spending $16.5 billion, the Pentagon and State Department still lack a ''sustainable strategy'' for developing the Afghan National Security Forces. Only two of the Afghan Army's 105 units are fully capable of fulfilling their mission. No police unit is fully capable. Today, I sent a letter to Secretary Gates and Secretary Rice asking for answers on why our progress in building Afghanistan's security forces is so stunted.

I ask unanimous consent that this letter be printed in the RECORD.

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

JUNE 26, 2008.

Hon. ROBERT M. GATES,
Secretary, Department of Defense,
Washington, DC.
Hon. CONDOLEEZZA RICE,
Secretary, Department of State,
Washington, DC.

SECRETARY RICE AND SECRETARY GATES: I read with great concern the U.S. Government Accountability Office's (GAO) June 2008 report on the Afghan National Security Forces (ANSF). Despite investing approximately $16.5 billion to train and equip the Afghan army and police forces over the past six years, I am alarmed to learn that the United States still lacks a comprehensive interagency plan to build the Afghan army and police. More troubling is the fact that only two of 105 army units and zero police units are considered fully capable of conducting their primary mission. I am writing you today to ask a simple question: why are we so behind in this fundamental task?

Building sustainable peace requires having a national army and local police that can provide and maintain security once international forces leave. In the case of Afghanistan, this is especially crucial as terrorists could easily reestablish a safe haven. I recognize and appreciate that building capable

and effective security forces is a difficult and complex undertaking, especially given the well-documented challenges we face in Afghanistan. However, this task must remain an urgent priority at the highest levels of this Administration. The security services, especially the local uniformed police, are the face of the Afghan Government and will determine the fate of security in Afghanistan.

I have several specific concerns regarding our efforts to build and sustain the Afghan National Security Forces.

First, the costs for maintaining the security forces are estimated at approximately $2 billion per year. Given the Afghan government's limited financial capacity, are these costs sustainable or will the international community be supporting the Afghan army and police for the foreseeable future?

Why is the United States' timeline for completion of a fully capable Afghan police force (2012) different from the benchmark used by the Afghan government and the international community (2010)?

How are we effectively evaluating the capability of the army and the police? How are the Defense Department's ''capability milestones'' being evaluated? Too often, we are overly concerned with quantitative indices (i.e. number of troops, weapons, uniforms, etc.) rather than taking a qualitative approach. The United Nations Police (UNPOL) has begun developing a Rule of Law Index (ROLIX) to help qualitatively measure the progress of security sector institutions in their work to establish the rule of law that may be of great value here.

The importance of civilian mentors in building the Afghan security forces cannot be overstated. As the GAO has stated, international peacekeeping efforts in Bosnia, Kosovo, and East Timor have shown that field-based training of local police by international police mentors is critical to the success of establishing professional police forces. Why is there still such a shortage of police mentors? How will this be remedied?

Equipment shortages plague both the Afghan army and police. Combined Security Transition Command—Afghanistan (CSTC–A) officials have stated that equipment shortages are due to competing U.S. priorities in Iraq. Why are the Afghan security forces facing such massive equipment shortages? Why is this not a major priority for the U.S. government?

I look forward to reading your report to Congress on our efforts to assist the Government of Afghanistan in increasing the size and capability of the Afghan Security Forces, including assessments of key criteria for measuring the capabilities and readiness of the Afghan Security Forces. I cannot overemphasize how important it is that we get this right and not squander any further opportunities to help build these basic institutions in Afghanistan. The security of the Afghan and American people depends on it.

Mr. CASEY. The problems plaguing Afghanistan are well documented: a resurgence of pro-Taliban forces, a burgeoning narcotics trade, rampant government corruption, insufficient resources for reconstruction, stalled development, fragile political and security institutions, and sheer, mind-numbing poverty. I spent a day in Kabul last month, where I had the good fortune of visiting with the chairman of the Armed Services Committee, Senator LEVIN, and even during this short amount of time, the magnitude of the challenges we face there was clear.

But what I also discovered is that despite these awesome challenges, there is a strong spirit amongst Afghans and coalition troops to persevere in the face of overwhelming odds. Afghans do not want the Taliban to come back. They may be disappointed by the results of President Karzai's government and broken promises by the international community. But they have been fighting for over 30 years for peace and stability. And they are not going to stop now. Not when they are this close to achieving those goals.

So it is now up to us to demonstrate true global leadership and finish what we started in 2001. This means, as the Afghanistan Study Group so aptly said, replacing the ''light'' footprint approach this administration has taken with respect to Afghanistan with the ''right'' footprint approach.

There is a common sentiment here in Washington that what is needed the most in Afghanistan is resources. If only we had more money, more troops, and more trainers on the ground, we would see more positive results.

It is true that we need to devote more resources to Afghanistan. That is why I was pleased to see that the recent international donors conference in Paris secured about $20 billion in commitments from more than 60 countries and international institutions, including a previous pledge of $10.2 billion from the United States. And that is why I applaud Secretary Gates' and Secretary Rice's repeated efforts in Brussels and other European capitals to secure additional Allied troops for the coalition in Afghanistan, troops that are free to wage combat where they are needed. We do need more to accomplish our mission.

But I do not want to engage in the transatlantic blame-game of which country could be doing more because it glosses over the underlying fault lines that have plagued our strategy in Afghanistan from day one. Ultimately, the real problem is not just one of troops or money or resources.

Rather, our mission in Afghanistan is in jeopardy because we still have not defined our long-term U.S. strategic objective in Afghanistan and, by implication, across South Asia.

We have not linked our relevant military security operations to a political strategy, and, most importantly, we have not made a long-term strategic commitment to Afghanistan in the eyes of the Afghan people. We have decoupled Pakistan from Afghanistan instead of formulating a strategy that would address the inherent and historic relationship between the two nations.

It is time to reformulate our basic fundamentals on how to approach this war. First and foremost, any strategy for turning the tide in Afghanistan must incorporate what is happening in Pakistan. To date, this administration has not fully appreciated Pakistan's security paranoia and the duplicity it has generated. Fueled by a credible fear that the U.S. will once again leave Pakistan in the lurch, as it did in the seventies and nineties, credible evidence exists that Pakistani security forces have renewed their ties to the Taliban to preserve their options.

We must redraw our map of this war to include the border region between Afghanistan and Pakistan. U.S. Army COL Thomas Lynch, a leading Afghan expert, has declared:

> The future of Afghanistan can be lost in Afghanistan, but it can only be won in Pakistan.

GEN Dan McNeill, who briefed both Senator LEVIN and me when we were in Afghanistan—he recently left after 16 months of service commanding NATO's international security force—warned that success in Afghanistan would be impossible without a more robust military campaign against insurgent havens in Pakistan.

Second, we must take advantage of the opportunity to work with Afghan security forces. They remain nascent and fragile at this moment, but they have significant potential with the proper investment of training, manpower, and equipment. As our military leaders in Afghanistan told me last month, the Afghan army is made up of proud soldiers who want to fight for their nation and who have a can-do spirit. But we must provide them the tools they need.

We cannot underestimate the importance of properly training the Afghan security forces. Last week, a GAO report said:

> Without capable and self-sustaining Afghan army and police forces, terrorists could again create a safe haven in Afghanistan and jeopardize efforts by the United States and international community to develop the country.

In particular, as Senator LEVIN and I recommended upon our return from Afghanistan, we need to assist the Afghan army to take over responsibility for border security functions in the territory adjoining Pakistan. Today, a lightly armed Afghan border police patrols this vital region, and this border police remains underequipped and underarmed. This is unacceptable. The United States and NATO allies should work together with the Afghan army to assume that critical national security function.

Finally, our strategy in both Afghanistan and Pakistan must focus on sustained development assistance. Former U.S. commander, GEN Karl Eikenberry, used to say, ''The Taliban begins where the roads end.''

Despite a massive influx of money into Afghanistan, we are not moving quickly enough to demonstrate to the Afghan people concrete results that improve their lives—building roads, schools, and hospitals.

We need to decouple our military activities from reconstruction assistance and bring our development experts from the U.S. Agency for International Development to the table where they belong. Our development approach thus far has overrelied on private contractors whose goals, missions, and timelines do not correspond with our own.

I have one more paragraph. We have to recognize that this battle against extremism is not going to be won in 2 or 4 or 10 years. It is not going to be won on the military battlefield. It is a generational challenge, a battle for the ages that will require significant resources in basic human development. Extremists exploit poverty, ignorance, and anger. The task before us is to defuse the igniters of that anger before they explode in the form of another failed state in Afghanistan or a terrorist attack in the United States.

We have a great history in this country of helping rebuild societies from ashes. It is time for a new Marshall Plan for Afghanistan, one that links the necessary resources with the right institutional expertise. It is time for us to do what we do best in the world.

In concluding, I go back to the work of the 9/11 Commission. In analyzing the many unexplored connections that led to that fateful day, September 11, 2001, the independent, bipartisan 9/11 Commission found:

The most important failure was one of imagination. We do not believe leaders understood the gravity of the threat.

That is what was said after 9/11. The same can be said today. Our brave men and women, the troops and diplomats who serve every day in Afghanistan get the picture. They see what this administration chooses to ignore. Failure in Afghanistan is not an option. Our national security, the safety of our families here, depends on what we do in Afghanistan, and preventing another terrorist attack here depends on what happens in Afghanistan and all of South Asia. We cannot fail in Afghanistan.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

FOOD VS. FUEL

Mr. GRASSLEY. Mr. President, for the past few weeks, I have been leading an effort to dispel the myths surrounding the impact of biofuels policies on our food prices. You may remember that back on May 15, I came to the Senate floor to announce to my colleagues that the campaign to smear ethanol is a well-funded and seemingly well-coordinated campaign. It is being led by none other than the Grocery Manufacturers Association.

In the weeks since that floor statement, I have been using every opportunity I can to beat back this smear campaign and inject the facts into the debate.

Biofuels are being scapegoated for rising wheat prices, even though the 2007 crop was the largest planted in 4 years. Biofuels are being blamed for the increased price of products such as rice and bananas, which have no correlation to corn production or our biofuels policies.

According to economists across the administration, biofuels have caused a tiny fraction of the increase in global and domestic food prices. They are also responsible for only a small portion of even the increase in the price of corn.

The fact is, the increased cost of oil is the biggest driver behind the increased price of food. In other words, energy and how energy fits into the food chain and the dramatic increase in the price of oil to $130, $140 a barrel is the biggest driver in the increased price of food.

But we also have drought in wheat-producing countries, such as Australia last year, adding to this increase. We have also had increased demand by the middle class of China and India for meats in their diet to a greater extent than ever before. Yet the grocery manufacturers and their association have focused the entire effort on ethanol. They see ethanol and renewable fuels as the root cause and most vulnerable to their attack.

Even with oil at $135 a barrel, they see their victory in undermining biofuels policies. It is important to note that biofuels are actually working to lower the price of gasoline at the pump. In fact, in Iowa, you can buy gasoline with biofuels in it for about 13 cents a gallon cheaper than you can 100 percent gasoline.

So while high energy costs are driving increases in food prices, the grocery manufacturers would have you believe that the solution is less energy supply. That is counterintuitive.

The Grocery Manufacturers Association does not seem to care much about facts. Their criticism and talking points are not based on sound science, sound economics, or even common sense.

While biofuels are easy to blame, it is intellectually dishonest to make these claims. But maybe intellectual dishonesty does not make any difference to the Grocery Manufacturers Association.

They have indicated that they fully support advanced biofuels from biomass rather than food crops, and maybe with ethanol we think of that as cellulosic ethanol, and of course, we are all supportive of efforts to promote the next generation of biofuels. But undercutting the current industry is not the way to get fuels into that second generation coming from biomass instead of from grain.

Those who are determined to pull the rug out from under today's biofuels should know that the next generation will not exist if the current generation is undermined.

I hope the Grocery Manufacturers Association has taken notice that I am not going to sit quietly while they try to undermine 30 years of public policy. In other words, 30 years ago, we decided in this Congress we needed more emphasis on renewable fuels because God only made so much fossil fuel. So you have to get to what you are going to do postpetroleum, and it is renewables. Of course, conservation is the other part of that as well.

So 30 years ago, we started out with incentives for biofuels. It is still not a mature industry, but it is maturing very quickly. If you cut the legs out from under that industry right now and the agriculture that supports it and the jobs in rural America that do the work, you are not going to have the next generation.

I sometimes think, even though I blame the Grocery Manufacturers Association because they announced this campaign of scapegoating ethanol, that somehow it is not just the Grocery Manufacturers Association. I cannot help but think that big oil is back there applauding everything the grocery manufacturers are doing.

Until now, in fact, the only significant opposition to developing renewable fuels over the past 30 years has come from big oil. I was not afraid to stand up to big oil over the last 30 years, and I am not going to stand by while the Grocery Manufacturers Association, with their smear tactics, destroy what the American people have been calling for—an industry so we can produce renewable fuels. And because of our national defense, the stakes are too high.

The Grocery Manufacturers Association's efforts, if successful, will raise prices at the pump in Iowa. I said 13 cents higher if you have 100 percent gasoline instead of 10 percent ethanol and 90 percent gasoline. And in the process, we would be increasing our dependence on foreign oil. Why not keep the money in the United States instead of spending $130 a barrel and sending it over to the Arabs where they will allow terrorists to train against us? Is risking our national and economic security worth the bottom line of a few multimillion-dollar food companies? Don't be fooled. Their campaign is not altruistic. It came directly from their mouths that this campaign is about their ''bottom line.''

Where is the outrage? American consumers need to know that a few big food companies are jeopardizing our efforts toward energy independence so that they can raise the price of food and increase their profits. They want to do away with this industry and, in the process, as Iowa State University tells us, without ethanol, gasoline would be on average about 30 cents higher per gallon. If the increased price of energy goes up, and energy is the cause for about one-third of the increase in the cost of food, then obviously food is going to go yet higher.

We are on a path, from the standpoint of national security and economic security, to reduce our dependence on oil from the likes of Venezuela and Iran. The Grocery Manufacturers Association wants to put the brakes on our efforts toward energy independence. They apparently prefer putting our economic security in the hands of crazy people, such as the President of Venezuela and the President of Iran, rather than putting their economic security in the hands of American farmers growing renewable fuels.

The Grocery Manufacturers Association, through their president and CEO, Cal Dooley, requested to have a meeting with me to discuss the impact of

food-to-fuel policies. Given the association's objectives to ''obliterate whatever intellectual justification might still exist for their corn-based ethanol among policy elites''—and that is what their public relations firm said about ethanol—I was pleased to accept former Congressman Dooley's efforts to talk to me about it.

U.S. Secretary of Agriculture Ed Schafer was also kind enough to accept my offer to participate in that meeting. However, I thought to have a meaningful discussion on their campaign to smear ethanol and my justification for renewable fuels, and so I requested the attendance of chief executives of 15 of the GMA's member companies. I thought it would be important for the CEOs of these companies, who are members of the association, to speak for themselves about the impact biofuel policies are having on their businesses. The companies themselves are in a much better position to explain why they believe the anti-ethanol campaign they have underwritten would be warranted. So I invited the CEOs of Campbell's Soup, Del Monte Foods, Lakeside Foods, Sarah Lee, Dean Foods, Hormel Foods, Procter & Gamble, Kellogg's, Land O'Lakes, ConAgra Foods, General Mills, Kraft, Ralston Foods, Cargill, and Archer Daniels Midland to come to the meeting. I expected to have many of the CEOs jump at the opportunity to tell me I am wrong. I thought I would hear firsthand how the increase in corn prices was affecting the bottom line of General Mills or Kellogg's or Kraft.

Many of the CEOs I invited are members of that trade association's board of directors. Naturally, I expected the CEOs to want to defend their association's campaigns and its tactics. Unfortunately, that is not what I got. Only one CEO—Chris Policinski of Land O'Lakes—agreed to attend, and Cargill offered a senior executive in place of their CEO. But of 15 companies, only one CEO thought it was worth their time to come to Washington and visit with me and Secretary of Agriculture Schafer about their trade association's campaign to smear ethanol. So I had no choice but to cancel the meeting.

They have hired a high-priced public relations firm to coordinate their campaign. One would assume they believe in the policies they are promoting. So why wouldn't they take advantage of this opportunity to convince Secretary Schafer and me that we have it all wrong? This is clearly a high priority for them. They seem to have invested a great deal in it, and a lot of dollars in it. Why wouldn't they attend the meeting? Don't they believe in what they are doing?

It appears all they want to do is to give a thumbs-up to their trade association's hiring of expensive PR firms to do their dirty work, instead of entering into real dialog with those of us who feel strongly that this country needs a policy of renewable energy, and more renewable energy every day.

I don't know whether GMA encouraged these CEOs not to attend. My colleagues might find it amusing, however, that two companies declined my invitation with a form letter. The letter from Mr. Conant, CEO of Campbell's, and the letter from Mr. MACKAY, CEO of Kellogg's, used the same text declining my invitation. Now isn't that something? CEOs of two major companies coming up with exactly the same words in letters signed by them to decline. I don't know who wrote it first, but I might expect CEOs of such primary companies to be a little more original in their communication with me. It makes one wonder who wrote the letter.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks these two letters.

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

(See Exhibit 1.)

Mr. GRASSLEY. Mr. President, I am going to keep pounding home the facts behind the relationship between food prices and biofuels, because it is not supported by economics, it is not supported by common sense, and it is not supported by sound science. The fact is, biofuels are increasing our national security, biofuels are helping our balance of trade, and they are reducing our dependence on Middle East oil and the whims of big oil. Every barrel we use of biofuels is $135 not going to some foreign land where they train terrorists to kill Americans.

So it is time we cleared the air, it is time we looked at the facts, and it is time we recognize, once again, that everything about our domestic renewable fuel industry is good, good, good. I emphasize it is good for the environment—less CO_2 in the air—it is good for good jobs in rural America, because a lot of these ethanol refineries are in rural America, where we never thought we would have good-paying jobs, and a lot of these refineries respond to another problem—we don't have enough oil refineries in this country. In a sense, every ethanol plant, every biofuels plant is a refinery. It is good for our national security, which I think I have made very clear, and it is good for agriculture. It is good that we don't have Government supporting surplus grains. We are not having taxpayers' money go out to farmers. Farmers are getting their money from the marketplace now that prices are higher.

So I don't know how many times I have to say it, but there are no negatives about biofuels and everything about them is good, good, good.

EXHIBIT 1

CAMPBELL SOUP COMPANY,
Camden, NJ, June 18, 2008.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Thank you for your invitation to meet regarding the relationship between US biofuels policies and their impact on commodity and food prices. Regrettably, I am unable to attend.

In my stead, however, the Grocery Manufacturers Association and a number of other organizations with similar concerns plan to participate. I also unders1and GMA will extend to you an invitation to attend the November meeting of the GMA Board of Directors, where we can have a full and productive discussion regarding our nation's energy policy.

As you know, GMA is working with many farm organizations, including the National Turkey Federation, the National Chicken Council, and the National Cattleman's Beef Association, to improve our federal food-to-fuel policies by accelerating the development of biofuels made from crop wastes and other energy feedstocks. Many experts have concluded that cellulosic biofuels hold enormous promise and will not pit our energy needs against the needs of food companies, livestock farmers and consumers. The Campbell Soup Company strongly supports biofuel policies that boost the income of farmers and simultaneously meet the needs of food companies and consumers.

In light of growing prices for corn and other commodities, we support policies that will reduce the use of food and feed crops to produce fuels. Although there are many factors contributing to rising commodity prices, federal policies that divert one-third of the U.S. corn crop is the only factor legislators have the power to change. Recent studies by the World Bank, the United Nations, and America's leading agricultural think tanks have linked rising commodity prices to these federal food-to-fuel policies.

Again, I thank you for your kind invitation to join you and Secretary Schaffer to discuss these concerns and regret that I am unable to attend. If appropriate, I would be happy to offer Kelly Johnston, Campbell's Vice President—Government Affairs, whom you know, to represent our company. The Campbell Soup Company looks forward to working with you and all interested parties to craft sensible and sustainable energy policy.

Sincerely,

D.R. CONANT,
President and Chief Executive Officer.

KELLOGG COMPANY,
Battle Creek, MI, June 17, 2008.

CHARLES E. GRASSLEY
U.S. Senator,
Washington, DC.

DEAR SENATOR GRASSLEY: Kellogg Company strongly supports biofuel policies that boost the income of farmers and simultaneously meet the needs of food companies and consumers. I sincerely appreciate your invitation to meet regarding these policies on June 24th, Regrettably, I am unable to attend.

In my stead, however, the Grocery Manufacturers Association and a number of other organizations with similar concerns plan to participate. I also understand GMA will extend to you an invitation to attend the November meeting of the GMA Board of Directors, where we can have a full and productive discussion regarding our nation's energy policy.

As you know, GMA is working with many farm organizations, including the National Turkey Federation, the National Chicken Council, and the National Cattleman's Beef Association, to improve our federal food-to-fuel policies by accelerating the development of biofuels made from crop wastes and other energy feedstocks. Many experts have concluded that cellulosic biofuels hold enormous promise and will not pit our energy needs against the needs of food companies, livestock farmers and consumers.

In light of growing prices for corn and other commodities, we support policies that

will reduce the use of food and feed crops to produce fuels. Although there are many factors contributing to rising commodity prices, federal policies that divert one-third of the U.S. corn crop is the only factor legislators have the power to change. Recent studies by the World Bank, the United Nations, and America's leading agricultural think tanks have linked rising commodity prices to these federal food-to-fuel policies.

Again, I thank you for your kind invitation to join you and Secretary Schaffer to discuss these concerns and regret that I am unable to attend. Kellogg Company looks forward to working with you and all interested parties to craft sensible and sustainable energy policy.

Sincerely,

A.D. DAVID MACKAY,
President,
Chief Executive Officer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the time until 2:15 is under the control of the junior Senator from Alaska or her designee.

The Senator from Alaska.

ALASKAN STATEHOOD

Ms. MURKOWSKI. Mr. President, today is an opportunity for us in the next 45 minutes to talk about a celebration. We have had some pretty serious business under discussion here on the Senate Floor, and today I and my colleague, Senator STEVENS, joined by others, rise to celebrate the 50th anniversary of the Senate passage of the Alaska Statehood Act, the act which eventually conveyed statehood upon the great State of Alaska after a fight for equal rights and representation that lasted literally decades.

After a long and contentious battle, both in Congress and across the country, the Senate passed the Alaska Statehood Act 50 years ago, on June 30, by a vote of 64 to 20. The act was signed into law 7 days later by President Eisenhower, and Alaska officially became a State on January 3, 1959. This was the headline in the Anchorage Daily News announcing, ''We're In.'' Our territorial Governor, Mike Stepovich, President Eisenhower, and Secretary Seaton are in this photo that we look to in our State's very young history with great fondness.

This year across the State, there will be celebrations all over put on by communities, by clubs, by businesses, by the State government. To help kick off this celebration, I would like to briefly remember a little bit of the history of a very rough journey toward statehood.

The territory of Alaska was bought from Russia in 1867. I know many students, when they are looking at their history books, learn that it was dubbed ''Seward's Folly.'' It was World War II and the Cold War that really transformed the face of Alaska, however. Having a strategically critical location for both wars, Alaska saw a large increase in Federal money and population in the 1930s and the 1940s.

While the aspiration for statehood had existed for many years and though Alaska had a delegate to Congress since 1906, it was during this time period that a serious and motivated and modern statehood movement rose up and captured the attention of Alaskans across the State.

The Alaska Statehood Committee was formed in 1949. This committee of 11 Alaskans was bipartisan. No more than six could belong to the same party, and at least two members had to come from each of the four judicial districts Alaska had at the time. They were given the task of publicizing and educating the public on statehood, both in Alaska and nationally, as well as framing a State constitution.

As early as 1946, though, 3 years before the Statehood Committee was formed, there was a large majority of Americans who were already very supportive of Alaskan statehood. A Gallup Poll that year indicated that 64 percent of Americans were in favor of statehood, with only 12 percent opposed. The percentage of supportive Americans grew to 81 percent by 1950. But even then, nearly a decade still remained in what became a bitter battle against special interests.

The wealthy salmon canning industry was the primary lobbying group that opposed statehood at the time. The salmon canners would put fish traps at the mouth of some of Alaska's largest rivers, and they caught nearly 30 percent of Alaska's salmon every year, sending the yearly salmon catch plummeting from 924 million pounds to 360 million pounds over a 20-year period. Alaska was in a tough spot. They were powerless to resist. With 99 percent of the territory's land owned by the Federal Government and with very little control over resource policy, the industry was pretty much free to devastate one of the State's most valuable renewable resources, and that was our Alaskan salmon.

This desire for a say in our own affairs only grew the intense desire of Alaskans to attain statehood for themselves. The newspaper the New York Journal-American summed up the situation this way:

> Alaska wants statehood with the fervor men and women give to a transcendent cause. An overwhelming number of men and women voters in the United States want statehood for Alaska. This Nation needs Alaskan statehood to advance her defense, sustain her security, and discharge her deep moral obligation.

In 1950, after years of thwarted attempts to bring an Alaska statehood bill to the floor of either Chamber of Congress despite the strong support of President Truman, a bill actually got a floor vote. It passed the House of Representatives, but it failed over here in the Senate.

Frustrated by repeated legislative defeats, Alaskans decided to write a State constitution. This was done in 1955. We decided to do it to show the country that we were politically mature and genuinely ready for statehood.

After a 75-day Constitutional Convention at the University of Alaska Fairbanks, a constitution was adopted by the delegates and ratified by Alaskans. It was later described by the National Municipal League as ''one of the best, if not the best state constitutions ever written.''

The way it dealt with natural resources was particularly distinctive and ingenious. The State's natural resources were viewed as a public trust and were required to be developed for ''maximum use consistent with the public interest [and] for the maximum benefit of its people.'' Development based on ''sustainable yield'' was constitutionally mandated. To this day, the State continues to operate on this principle in our fisheries, minerals, fossil fuel development, and our timber. One example of the results of this policy is that Alaska is the only region in the United States that has no overfished fish stocks.

Two years after the constitution was ratified and 50 years ago, on May 28, the House of Representatives voted on the bill that would eventually confer statehood upon Alaska. The bill passed the House 210 to 166. The Senate passed it 64 to 20, and then President Eisenhower signed it into law. Over 15 years passed between April 2, 1943, when the first bill was introduced, and June 30, 1958, when the final bill was passed. We were officially a State on January 3, 1959.

I have been perusing the CONGRESSIONAL RECORD to kind of get a sense of the Senate debate at the time, the debate that preceded Alaska's entry into the American Union. I am a born and raised Alaskan. I have found the record absolutely fascinating. It includes enthusiastic and very passionate arguments in favor of statehood but also countered by lawmakers who saw Alaska's entry into the Union as being a huge mistake. There is even an occasional Communist threat reference, a reminder that this debate occurred against the backdrop of the Cold War.

Some of the arguments against statehood included the fact that Alaska was not contiguous with the rest of the United States; Alaska was not sufficiently developed economically or politically to be ready for statehood. There was also a reference to the fact that Alaska doesn't produce enough agriculture.

There were provisions granting Federal land to the State. They alleged it was a huge Federal giveaway, but keep in mind that the Federal Government still owns over half of the State of Alaska. But really the argument centered around the concern that Alaska would be a huge burden on the Federal Government financially.

Senator Richard Neuberger of Oregon, who was a supporter and was presiding over the Senate during the historic Alaska statehood rollcall vote, said that Alaska statehood would afford the United States the opportunity to show that ''we practice what we preach.''

Neuberger said:

For decades we have preached democracy to the rest of the world, yet we have denied full self-government to our vast outposts to the north, despite many assurances that such would not be the case.

He continued on by saying:

The voice of America may talk of democracy, but its message will ring hollowly through the rest of the Free World if America fails to practice democracy. In the crucible of world opinion, we shall be tested by deeds and not words. Statehood for Alaska will be a tangible deed.

Among Alaska's greatest friends in the Senate were both Senators from Washington State, Henry ''Scoop'' Jackson and Warren Magnuson. Jackson told his colleagues that the time was ''past due'' for the admission of Alaska to the Union, while Magnuson said it in another way. He said:

Alaska has sat impatiently in the anteroom of history for 42 years.

These comments represent only a fraction of the Alaska statehood debate which began years before the last frontier became the 49th State, but still they offer some valuable perspective on the challenges and obstacles our forefathers faced on the road to statehood.

A few of my colleagues will be joining us over the next half hour or so to help remember and reenact the debate that occurred 50 years ago. I am grateful for their willingness to join me in celebrating our 50th anniversary of the 49th star on the flag.

I mentioned that Alaska has been referred to as ''Seward's Folly.'' I don't think many people know that we also were referred to as ''Icebergia,'' obviously a reference to the colder environment up there. But Alaska has since made incredibly significant contributions to our great Nation. I do not think anyone considers Alaska a folly. We provide 55 percent of America's seafood, we attracted 1.5 million tourists last summer to the State, and we have been a stable domestic supplier of U.S. oil needs for the past 30 years.

Alaska is proud to be ''the Great Land'' in the greatest Nation in the world. I am privileged to represent its people here in the United States.

With that, I yield the floor to my senior colleague, Senator STEVENS.

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

Mr. STEVENS. I believe I have been allocated 20 minutes to speak.

The PRESIDING OFFICER. There is no previous order.

Mr. STEVENS. Mr. President, that photograph brings back many memories to me. The gentleman on the right was my employer at the time, the Secretary of Interior, Fred Seaton. As a matter of fact, I was standing right behind him at the time that photograph was taken.

I remember the debate here on the floor of the Senate on the Alaska statehood bill. On the day the vote was taken, I was standing up where those people are right now in the Press Gallery. That was unheard of, but I was standing beside my good friend who was the editor of the Fairbanks Daily News-Miner, C.W. ''Bill'' Snedden. He had bought this newspaper. He purchased it a few years before we got statehood, and he turned its policy around to support statehood.

One of the things he created was a cartoon they put on the front page of the paper every day. It was a small thing down at the bottom. This was Sourdough Jack. Sourdough Jack had wise sayings every day. This one day he published this, it was:

All of the valid arguments against Alaska statehood are listed in full on pages 2, 3, and 4.

All blank. That was the attitude of Alaskans. There really was no valid opposition to our becoming a State.

However, I think the Senate should know what the Senate did then and the role of the Senate in Alaska becoming a State—and Hawaii, too, later the same year.

Our delegate at that time in the House of Representatives, Democrat Bob Bartlett, discovered an old rule in the House that permitted matters of constitutional import to be taken to the floor of the House and worked on solely by the Committee of the Whole of the House, bypassing the Rules Committee. So after having tried since 1913 into 1958 to get statehood, our delegate made the motion to bypass the Rules Committee. With a vote of the House, they approved going right to the floor with the Alaska statehood bill. That was an achievement no one could even have expected. But it showed the power of the press at that time. The American press took up the cudgel, they took up the sword to have both Alaska and Hawaii become States. It was really great to see Hearst and Luce and so many of the leaders of the newspaper profession joined together to urge the American people to swell up and demand these bills be passed.

As the bill passed the House and came over here, there was a great problem because the Rules Committee chairman made it very plain that if there was an attempt to have a conference committee on this bill admitting Alaska to the Union, he would see to it that it would never see the light of day in the House. So our job at that time was to get the statehood bill passed by the Senate without one single change—not a comma, no paragraphs, nothing altered, and nothing changed.

I think the Senate today would appreciate that problem because those were the days of the true filibusters. Those were the days before the current rule on cloture. At that time, it took two-thirds to stop debate. It was something to behold, sitting in the gallery as I did, to see the power of Senator Scoop Jackson on the one hand and Senator Norris Cotton on the other—Norris Cotton being a Republican from New Hampshire, Scoop Jackson being a Democrat from Washington—guide that bill through the Senate and overcome the filibuster that was led by my late good friend Strom Thurmond.

It is a total tribute to the democracy we represent that this enormous act of admitting a State—there had not been another State admitted since Arizona had been admitted in 1913. Here we were in a post-World War II period, when part of the momentum for our getting statehood was, in fact, the people who had served in the Armed Forces and were stationed in Hawaii or in Alaska—many of them had been stationed in the territories and went back to the territories after they were released from service after we won World War II.

But this day, the day the Senate finally passed this bill, was a unique one.

The galleries were full. That is one reason I was up in the press gallery rather than over in the normal gallery for visitors. But, very clearly, we knew it was going to be a difficult day for us. We had counted votes and all of the rest trying to predict what was going to happen. But when it happened, I want the Senate to know, this was something significant that happened. The people in that photograph, except for the President, gathered right out in the reception room of the Senate. Then we went to—Republican and Democratic alike—members and people from the gallery, we went to the then-chapel of the Senate, and we offered a prayer to thank the people who had given us this new right.

It was one of the most significant days that I can remember in my life. I am proud of my colleague who has brought upon the Senate the idea of having some remembrance here of what went on in those days. Our State has become a State. We have developed our economy to be one of the great producers of natural resources. Many people have challenged that, and we are currently blocked in exploring the Outer Continental Shelf off our State. Two-thirds of the Continental Shelf of the United States is off our State.

Every well so far that has been tried has been blocked. We have been blocked now for 25 years at getting the right. We thought we achieved it in the 1980 act which set aside 1.5 million acres of the Arctic for oil and gas exploration and development.

I hope we will come to a time where we will realize the errors of our past and we will find that the day will come when the Arctic Coastal Plain will be opened. Once it is, the Alaska oil pipeline, which was built to carry 2.1 million barrels a day—it is carrying less than 700,000 barrels a day now—will be full. Because we know from 3–D seismic and from the well that was drilled,

there is no question that there is oil on the Coastal Plain that some people call ANWR. But the development of that plain will bring us, both the Federal Government and the State, billions of dollars that we want to dedicate to the development of renewable and alternative resources.

For instance, we have half the coal of the United States. We should have mine-mouth conversion for coal gasification, coal liquefaction.

We have those magnificent five military bases in our State. They all need lots of energy. We have to find some way to assure they will have energy for our national defense. I think we are proceeding to the point that the American people know what we must have; that is, we must have the right to proceed to develop our resources.

Fred Seaton, whose picture was photographed there as the Secretary of the Interior, was an appointed Senator from the State of Nebraska. He made only one statement on the floor of the Senate. He was absolutely convinced that Alaska should become a State.

Let me read a portion of what he said:

Alaska is as deserving of statehood, and as ready for statehood, and as greatly in need of statehood, to come into her own, as were any of the present States when it was their turn before the bar of the Senate.

Let us deal with the American citizens in Alaska no less generously in this manner than were our forbearers dealt with in their respective territories. Alaska, like all other States will keep the faith and carry the grand old United States tradition. Alaska's star has for too long been denied its rightful place on the glorious flag of the United States of America.

We, as Alaskans, are proud of what we have done. From the days we became a part of the United States in 1867 when Secretary Seward led the negotiations to buy the Territory of Alaska from Russia for a mere 2 cents an acre, we have contributed substantially to the income, the resources, and to the well-being of our people.

We are the northern territory for the defense of this country. Our national missile defense site at Fort Greely, AK, has the capability of defending the whole United States, 360 degrees around, from Maine to Florida, from the tip of California to the tip of Alaska. That national missile defense site defends America.

We have committed ourselves to support those in uniform who defend this country and defend our way of life. So I think this is a wonderful thing to celebrate, the fact that the Senate took the action it did in approving the basic approach of the House to take the initiative to bring Alaska into the Union.

We were followed by our great and dear friends from Hawaii. And many people wonder why we are so close, those of us from Hawaii and Alaska. We represent offshore States. When we got here, many of the laws that applied to the 48 States did not apply to us. The effect of our working together has been that Hawaii has four Senators and Alaska has four Senators because we have a lot in common. We do not vote together on issues of national issues, that is not a position. But when it comes to the rights of our States, we have shown what can happen in the Congress of the United States when two delegations say: We are together. And as new States, we deserve to be recognized and treated as equal partners in this Union.

I am proud to speak of the alliance that we have with Senators Inouye and Akaka—that has been achieved in my almost 40 years here.

As I have said, Mr. President, for many days in June of 1958 I watched from the gallery as the Senate debated and finally passed the Alaska Statehood Act. That vote marked the end of our long and difficult road to self-determination.

Alaska was my home. I had been U.S. Attorney in Fairbanks. Working in Washington as Assistant to the Secretary of the Interior, Fred Seaton, I became involved in the battle for statehood.

Some Americans believed Alaska was too remote and too politically immature to become a full partner in the Union.

Alaskans worked tirelessly to show the American people and Congress that the Union would benefit from Alaskan statehood. My friends, Bill Snedden, publisher of the Fairbanks Daily News Miner, and Bob Atwood, publisher of the Anchorage Times, wrote to almost every paper in the U.S. setting forth our positions for statehood and requesting support for our efforts.

Alaskans reached out to their friends and family in the lower 48 asking them to write their Senators requesting they support statehood.

Fifty-five men and women met at our constitutional convention in Fairbanks and devoted themselves to creating what has been called ''the best state constitution ever written,'' proving Alaskans had the political maturity to join our union.

I worked with the Secretary of the Interior, Fred Seaton, and members of the Eisenhower administration to explain the President's support of Alaska being a State.

Six years earlier Secretary Seaton had been a Senator from Nebraska. He served for only 1 year being appointed to fill the vacancy caused by the death of Senator Wherry. In his first address to this body, Senator Seaton spoke strongly in support of statehood for Alaska, recalling the doubts and objections raised when his own State of Nebraska was struggling for statehood.

Senator Seaton said:

Alaska is as deserving of statehood, and as ready for statehood, and as greatly in need of statehood, to come into her own, as were any of the present States when it was their turn before the bar of the Senate.

Let us deal with the American citizens in Alaska no less generously in this matter than were our forbearers dealt with in their respective territories. Alaska, like all the other States, will keep the faith and carry on the grand old United States tradition. Alaska's star has for too long been denied its rightful place on the glorious flag of the United States of America.

Our delegate to the House of Representatives, Bob Bartlett and our ''Tennessee Plan'' Senators and Representatives, and Alaskan pioneers Ernest Gruening, Bill Egan and Ralph Rivers met with Members of Congress to convince them to support Alaska statehood.

After the House passed our statehood bill on May 28, 1958, opponents in the Senate tried to stop the bill by attaching controversial, unrelated amendments.

Our good friend from Washington, Senator Henry ''Scoop'' Jackson led a bipartisan effort to fend off changes to the bill.

In the 6 days of debate prior to the vote, Senators carefully weighed the prospect of granting statehood to Alaska.

Alaskans are proud of all we have accomplished in the 50 years since that historic vote.

Through responsible development of our vast natural resources we are working to build a strong and vibrant economy.

Prudhoe Bay and the 800 mile Trans-Alaska Pipeline, completed in 1977, have delivered more than 15 billion barrels of oil to the American economy.

In 2007 alone, Alaska's mining industry contributed an export value of $1.1 billion to the national economy.

Through science-based management, our fisheries have been protected and rehabilitated. Because of our success, Alaska's fisheries management principles are now used as models for fisheries across the country. Today half our Nation's total domestic seafood production comes from Alaska.

Modern water and sewer facilities and health care clinics are now located in most rural Alaskan communities. Through these and other projects and development of our natural resources, Alaskans are creating educational and job opportunities in the most remote corners of our state.

Alaskans proved our strategic military value to the Nation during WWII when our Territorial Guard provided a first line of defense and protected the terminus of the lend lease Aerial Bridge at Fairbanks.

Today Alaskans welcome and support the men and women of the 1st of the 25th Stryker Brigade Combat Team based in Fairbanks, the 4th of the 25th Airborne Brigade Combat Team based in Anchorage and the 11th Air Force based at Elmendorf.

They, and our Alaska National Guard, have served our Nation bravely in Afghanistan and Iraq and around the world. Our strong tradition of service has resulted in more veterans per capita living in Alaska than in any other State.

While Alaskans have much to celebrate on our 50th anniversary of statehood, we continue working to accomplish more.

The Alaska Natural Gas Pipeline will deliver 4 billion cubic feet of domestically produced natural gas each day to homes and businesses throughout the United States. Our pipeline will also create 400,000 new jobs nationwide.

Continued development of Alaska's resources, including oil and gas development on the arctic coastal plain and our outer continental shelf, could also help deliver the energy needed to power our Nation's economy.

Recent estimates show that the arctic coastal plain alone could deliver 1.5 million barrels of oil a day to market and contribute billions of dollars in corporate income tax revenues and royalties to the U.S. Treasury.

Alaskans began our journey to statehood in 1867 when the Secretary of State William Seward advocated for the purchase of the territory from Russia for a mere 2 cents an acre. At the time the decision was ridiculed as ''Seward's folly.''

Alaskans have worked hard to realize the full potential of our land and our people. There is no doubt Alaskans have lived up to the faith the Senate showed in us 50 years ago when it voted to grant us statehood. Alaskans have earned the name of our State, ''the Great Land.''

Ms. MURKOWSKI. Mr. President, I want to thank my senior colleague for his comments. It is rare that we have an opportunity to speak from such personal knowledge about the battle for statehood.

As he spoke, I imagined Senator STEVENS sitting up there in the galley watching this debate anxiously as the future of Alaska was being decided. So it is an honor to work with him representing the people of Alaska. But for him to be able to share this historical perspective is wonderful. Our neighbors to the south in Washington have worked with us on so many different issues over the years.

As I mentioned in my comments, Senator Jackson and Senator Magnuson were big advocates for statehood for the State of Alaska.

I am delighted that our colleague, Senator MURRAY, has agreed to join us in talking about Alaska's statehood.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. ''Mr. President, let us vote for the 49th star in the flag.'' Those were the words from the great Senator from the State of Washington, Warren Magnuson, spoken on this floor in 1958, just before this body finally agreed to make Alaska one of the United States.

Today, I am very pleased to join our colleagues from the north in Alaska to say a warm congratulations to the people of Alaska on this 50th anniversary of their statehood. Alaska's statehood, as you heard, was controversial a half century ago. But I think time has proven that the United States is a greater Nation thanks to the Land of the Midnight Sun.

As Senator MURKOWSKI has said, Washington State's Senators, Warren Magnuson and Henry Jackson, were some of Alaska's greatest friends. Their advocacy helped to sway this Senate that Alaskans were ready to join the Union. Today I want to give you a flavor of that debate at the time and their role in it.

Back in 1958, Alaska's statehood had already been an issue for 42 years, and legislation to make it a State had been introduced in every Congress since 1943.

As Senator Jackson said in one speech that led up to that final vote that Congress had held 11 hearings, two of them in Alaska, and others here in Washington, DC. And more than 4,000 pages of testimony had been published.

''It was time to put the issue to rest,'' he argued, and I quote:

There can be no doubt that the record is complete. Our objective is statehood. It can be achieved now.

Those were the words of Senator Jackson back then. And as the debate continued, Senators Magnuson and Jackson were confident that Alaska was ready.

Senator Magnuson argued that with 180,000 citizens, Alaska had more residents than Missouri, Kansas, Arkansas, Alabama, Nevada, Idaho, and 21 other States when they were admitted into the Union. He pointed out to this body that Alaska was strategically located between the United States and the Soviet Union and that it was home to two important military bases at the time right when the Cold War was escalating.

He dismissed the argument that Alaska could not support itself as a State because that argument had not held up when it was used for his own State of Washington.

He said:

Alaskans feel confident that they can lick this problem as they have met and solved others. I say, we should give them that opportunity.

So in Senator Magnuson's mind, the controversy was very similar to a family argument about whether a child was ready to leave home. He said:

These United States, like fearful parents, can waver further in indecision, and allow our lack of confidence to undermine Alaskans and say, ''You will be ready for statehood someday, but not now.'' Or we can be proud of Alaskans' determination to strike out for their true independence through their own real self government.

''The United States should follow through the second course,'' Magnuson said.

He said:

The territory feels entitled to sit and deliberate with us—be one of us. Alaska wants to work out her own future, just as each of the other 48 partners in our nation have been allowed to do. Alaska's hopes, aspirations, and quiet self-confidence are understandable. She knows that her resources, her people, and their combined potential spell a brilliant future.

Alaska has sat impatiently in the anteroom of history for 42 years. Alaska should be a State.

I am very proud of the role Washington's two Senators played in this debate at the time. Alaska's road to statehood was long and it was hard. But Alaskans are some of the toughest people around. They fought for their rights. They did not give up. And they prevailed.

So as they celebrate across their State I wish them a happy and a successful future. I want to close by once more quoting Senator Magnuson's words to the people of Alaska.

He said:

We approve and commend your vision, understand and believe your hopes, know that your mission and goal can and will be reached, so good luck and godspeed.

Mr. CRAPO. Mr. President, I am honored to stand and speak today on the occasion of the 50th anniversary of the legislation establishing Alaska as our 49th State. I continue a tradition of sorts: A former Idaho Senator, Frank Church, stood in this same chamber 50 years ago, May 5, 1958, to be exact, to call for Alaska's statehood.

Let me begin, if I may, with the words Senator Church recited that day:

Wild and wide are my borders,
Stern as death is my sway,
And I will wait for the men who will win me—
And I will not be won in a day;
And I will not be won by weaklings,
Subtle, suave and mild,
But by men with the hearts of Vikings
And the simple faith of a child;
Desperate, strong and restless,
Unthrottled by fear or defeat,
Them I will guild with my treasure,
Them I will glut with my meat.
Send me the best of your breeding,
Lend me your chosen ones,
Them I will take to my bosom,
Them I will call my sons.

These lines come from a poem entitled, ''The Law of the Yukon,'' and were written by Robert W. Service, a Canadian poet who traveled north, caught up in the fever of the Klondike Gold Rush. The poem was inspired by the majesty of the land of the Northwest Territories and the Alaska territory, and for Senator Church set the stage for an impassioned, intricately argued plea for Alaska's statehood.

Senator Church spoke that day of taxation without representation. He referenced the treaty by which the United States acquired Alaska which said that the inhabitants of the Territory ''shall be admitted to the enjoyment of all the rights, advantages and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty.'' Senator Church asked this body the question: ''Can it be that ours, too, will be the error of the Roman senate, which sapped the vitality and strength from the Roman Republic, refusing to extend the right of franchise, until government became a mockery, empty of empty of principle . . .?''

Fortunately for the United States in this matter, right prevailed that year, and those calling for Alaska's statehood were vindicated in their tireless quest.

The admission of Alaska into the Union represents a rejection of the status quo, a manifestation of the very American tendency to look beyond what is to what could be, and Alaska has exceeded all expectations. That historic 1958 debate about Alaska's statehood mentions things familiar today which remain the backbone of Alaska's economy and, by extension, are integral to the U.S. economy, salmon, oil and natural gas to name a few. Alaska enriched our inventory of public land immeasurably: forests rich in wildlife; the majestic mountains of the Denali and the breathtaking flanks and soaring peak of Mount McKinley; glaciers of incredible beauty; rivers teeming with salmon; and bays and harbors with orcas and other ocean wildlife. Alaska holds beauty and riches beyond measure above and below the land, rivers and oceans.

Periodically, the U.S. Senate does something that, in the words of Senator Church that year, falls outside the realm of meeting exigencies of the present. When the Senate bestowed statehood upon Alaska 50 years ago this week, it grasped the brief shining moment history had granted it and looked beyond partisan politics to do something great and glorious for the good of our Nation.

I appreciate the Senator from Alaska's invitation to speak during this auspicious time in Alaska's history. I am proud of the role of Idaho lawmakers in the history of Alaska's statehood, particularly Senator Church, and also Congresswoman Gracie Pfost who also supported Alaska's statehood that year. In fact, an editorial in the Fairbanks News-Miner on May 6, 1958 called Senator Church ''one of Alaska's greatest champions in Congress.''

Idaho and Alaska will always have much in common. Both western Rocky Mountain States, we face similar land use, wildlife and natural resource issues and we both celebrate the staggering beauty of our land. While Idaho does have the largest amount of wilderness area in the continental United States, it is dwarfed, of course, by Alaska which has the largest amount of Federal land of any State. Idaho and Alaska lawmakers can be proud of half a century of working together for the good of our States, our constituents and the mountain west.

Congratulations, Senator MURKOWSKI and Senator STEVENS, on the birthday of your great State.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I thank my colleague from the State of Idaho. As he indicated, Senator Church was a great leader in the statehood fight. Idaho and Alaska have long since maintained that good relationship from five decades ago. I also recognize the comments of Senator MURRAY from Washington. The relationship our two States have had throughout the years through trade and commerce has provided issues on which we have worked jointly. Again, I thank them for taking the time to help Alaska commemorate its 50th anniversary celebration.

I will tell my colleagues, as the first Senator serving in the Senate to ever have been born in the State of Alaska—I was actually born just a little bit before statehood, born in the territory—I am fiercely passionate about my State. My mother was born in the community of Nome in the early 1930s, at a time when Alaska was pretty rough and tumble. My family on both sides was involved in the issues that led to statehood. I am very proud of how we as a State have advanced over these 50 years. To be able to recognize that progress and then look forward with anticipation as we forge the next 50 years, a State that has so much to offer this country, not only our natural resources but the ingenuity and resourcefulness of our people, the fact that our Alaska Natives per capita serve at record numbers in our military, providing for the defense of this country, we are full participants in this great Nation. Even though our geography separates us, there is a sense of patriotism and love for this country that does not go without recognition.

I am honored to stand before the Senate today to celebrate the battle that led to statehood and the recognition of decades of good work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent to print in the RECORD the names of distinguished young Alaskans who have been permitted to be on the floor today to witness the celebration of our 50th anniversary.

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

SENATOR MURKOWSKI'S INTERNS AND THEIR HOMETOWNS

Brian O'Leary—Kodiak, Rochelle Hanscom—Fairbanks, Nychele Fischetti—Anchorage, Taryn Moore—Anchorage, Lyndsey Haas—Petersburg, Kristen Coan—Palmer, Wes Stephel—Soldotna, Haleigh Zueger—Unalaska, Kelsey Eagle—Sitka, Samantha Novak—Anchorage, Cameron Piscoya—Nome, and Alexis Krell—Wasilla.

SENATOR STEVENS' INTERNS AND THEIR HOMETOWNS

Bennett Clare—Nikiski, Castillo Serame—Anchorage, Choi Claire—Anchorage, Downey Michael—Anchorage, Hein Dyle—Juneau, Horstkoetter Paul—Anchorage, Johnsen, Jakob—Fairbanks, Lettow Jaimee—Wasilla, Malmberg Cort—Kodiak, Syversen Karmel—Anchorage, Alguire Coleman—Ketchikan, Eby Eryn—Anchorage, Gilman Rebecca—Kenai, Joynt Marshall—Wasilla, Kazmierczak Jessica—Salcha, Mallipudi Andres—Anchorage, Oh Samuel—Wasilla, Osterman Thomas—Kasilof, and Welch Alisha—Bethel.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I could add a word to my two distinguished colleagues. I have had the good fortune—and it is good fortune—to have visited every State in the United States and the territories in my nearly 82 years of wonderful life that the good Lord has given me. I would think every American would deem, every American who has a feeling for the outside and the magnificent beauty of nature, that their education would not be complete unless they visit Alaska and see with their own eyes and breathe the air, see the water, all the magnificent beauty. I have enjoyed a number of trips to Alaska, largely sponsored by my dear friend Senator STEVENS, through the years. We have been there together many times, many times in connection with the U.S. military, which finds a wonderful home in Alaska. Alaskans have taken such good care of them.

But you have a great strength. Those of us in the Senate are proud to serve with two fine Senators from the great State of Alaska.

Mr. President, I ask at this point in time if I could address the FISA bill. Is that the pending business or may I ask to speak on that business now?

The PRESIDING OFFICER. The Senate is postcloture on the motion to proceed to the FISA bill.

Mr. WARNER. So it is appropriate at this time to deliver remarks with regard to that bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I thank the Chair.

Mr. President, this is one of the most important subjects I have had the privilege of addressing in my 30-some years in the Senate. I and many others will rise in connection with this bill in support of the FISA Amendments Act. It is a critical piece of legislation for America's present and future security. It achieves an important balance between protecting civil liberties and ensuring that our dedicated intelligence professionals have the capabilities they need to protect this Nation.

Currently, Admiral McConnell is Director of our intelligence system. I have had the privilege of knowing him for over 30 years, working with him. We are fortunate that he and General Hayden and many others are carrying the torch for our Nation's intelligence. They have worked very hard on this piece of legislation, as has my dear colleague from Missouri, Senator BOND. I am on the Intelligence Committee. He has done a splendid job in negotiating the conference—hopefully, what will be a settlement. He was supported by our chairman, Senator ROCKEFELLER. It has been a team, with the two of them achieving the juncture we are at now in the consideration of this bill.

The bill ensures that the intelligence capabilities provided by the Protect America Act, enacted in August of 2007, remain sealed in statute. I cannot overemphasize how important that is to ensuring our Nation's security. I wish to underscore, once again, the importance of legal protection for the telecommunications carriers that have voluntarily—underline voluntarily—come

forth for the private sector and have assisted our Government with the terrorist surveillance program, commonly referred to as TSP, which was originated and authorized by the President under appropriate sections, in my judgment, of the Constitution, particularly article II.

I wish to emphasize that I was privileged to be Secretary of the Navy in the period of the 1970s, when the All-Volunteer Force was conceived. That force of young men and women, each of whom raised their hands and said, I volunteer to serve in uniform, is not unlike the issue today with elements of corporate America, the private sector, who have come forward to volunteer to assist this Government in performing the intelligence responsibilities undertaken which guarantee the freedoms and safety we enjoy every day here at home. The extensive evidence made available to the Senate Intelligence Committee shows that carriers that participated in this program relied upon our Government's assurances that their actions were legal, authorized by the President, and in the best interests of the security of our Nation.

In brief, our Government provided the carriers with essential assurances, and the carriers responded to our Government's request for help. These carriers must be protected from costly and damaging lawsuits. Such lawsuits could end the current level of participation in the vital intelligence programs by these carriers and will likely deter other companies and private citizens who might like to step forward and volunteer in helping us protect ourselves by virtue of the essential intelligence we must monitor and collect every day. After all, these carriers are corporations in most instances, if not all. They are beholden, the executives of these corporations, to the stockholders. That is the system of free enterprise we have in the United States. Consequently, they, on behalf of their stockholders—and the stockholders could be the pension funds, could be a stock held by any number of people and entities in our system of Government—are coming forth simply asking for codification of assurances having been given by the Government so they can go back to their stockholders and explain that: We are doing this to protect America. We now have, by virtue of the actions of the Congress, signed and sealed by the President, the law that will protect your interests in this country from lawsuits which have no foundation in law.

I would like to share a ''Dear Colleague'' letter which all Members of our Chamber some months ago received from the esteemed chairman and vice chairman of the Intelligence Committee, Senators ROCKEFELLER and BOND.

I ask unanimous consent that the full text of the letter be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. WARNER. The letter discussed the Senate Intelligence Committee's extensive and bipartisan review of the TSP, which included dozens of briefings, hearings, and interviews, as well as extensive document reviews. As a result of this more than 10-month comprehensive examination, the committee concluded—and I quote what was written and published to our colleagues by the committee—

Irrespective of one's opinion of the President's reliance on Article II authority to justify the TSP, those companies that assisted with the TSP did so in good faith and based upon the written—

I repeat: ''written representations''—

from the highest levels of government that the program was lawful. The Committee's bill reported out on a strong, bipartisan vote of 13–2—

I wish to repeat that. That is a strong vote. I have served on the Intelligence Committee. This is my third tour of duty, you might say, given that we have, under our leadership, stipulated periods to serve. That is a big, strong vote. At one time, I was ranking member, as is Mr. BOND, of that committee, and that is about as strong a vote as you can get among the diversity of the wonderful people who have, throughout my years in the Senate, served on that committee.

[That vote] reflects our determination that companies that cooperated with the government in good faith should be protected from time-consuming and expensive litigation. It is a matter of fundamental fairness.

End quote by the committee.

Another item which played a key role in my thinking about the issue was a thoughtful article published in a newspaper by private citizens with past distinguished careers in public service relating to intelligence. The first is Benjamin Civiletti, U.S. Attorney General under President Jimmy Carter; followed by Dick Thornburgh, U.S. Attorney General under President George Herbert Walker Bush; and Judge William Webster, a very distinguished gentleman I have known personally for many years, former Director of the CIA and former Director of the Federal Bureau of Investigation.

Now, there are three diverse public servants, with different political backgrounds, but they came together for the common purpose of trying to strengthen America's intelligence system. The article, entitled ''Surveillance Sanity,'' appeared in the October 31, 2007, edition of the Wall Street Journal. I have spoken on the floor previously about this article and their contribution, but because of its direct relevance to the issue we are now deliberating on and hopefully will vote on today, I ask unanimous consent that a copy of the article be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. WARNER. Let me share with you some of their thoughts. Regarding the Intelligence Committee's carefully crafted and limited liability provision, which is very similar to the provision in the bill currently before us, these three distinguished public servants—now private citizens—said:

We agree with the Committee. Dragging phone companies through protracted litigation would not only be unfair, but it would deter other companies and private citizens from responding in terrorist emergencies whenever there may be uncertainty or level risk.

Unfortunately, our committee has already heard testimony that without such protections, some companies believe they can no longer continue their cooperation and assistance to our American Government, particularly the intelligence sections.

Messrs. Civiletti, Thornburgh, and Webster also wrote:

The government alone cannot protect us from the threats we face today. We must have the help of all of our citizens. There will be times when the lives of thousands of Americans will depend on whether corporations such as airlines or banks are willing to lend assistance. If we do not treat them fairly when they respond to assurances from the highest levels of the government that their help is legal and essential for saving lives, then we will be radically reducing our society's capacity to defend itself.

That is very strong language, very clear language. I urge my colleagues, once again, to look at their article.

As the Senate considers this bill, it should reject any amendments which would put the carriers and their millions of shareholders in legal limbo, waiting while the Government litigates unrelated constitutional claims. Lawsuits against the companies would likely continue in the interim which would: have negative ramifications on our intelligence sources and methods; likely harm the business reputations of these companies; and cause the companies to reconsider their participation—or worse—cause them to terminate their cooperation in the future.

The Senate Intelligence Committee, by a vote of 13 to 2, stated its belief that the carriers acted in good faith and that they deserve to be protected.

Clearly the issue of whether the President acted within his constitutional authority in authorizing the TSP can and should be addressed in a separate context from this bill.

Even the exclusive means provision in this bill favored by my Democratic colleagues in the House and Senate acknowledges the President's constitutional authority in stating that certifications to companies for assistance shall identify the statutory provision on which the certification is based, ''if a certification . . . is based on statutory authority.'' This clearly indicates that the certification could be based on the President's constitutional authority.

But, even if one did not agree that the President acted within his Article II powers, why would anyone want to punish the carriers for something the Government called on them to do and assured them was legal?

Individuals who believe that the Government violated the civil liberties can pursue legal action against the Government, and the bill before us does nothing to limit that legal recourse.

As stated so eloquently by Messrs. Civiletti, Thornburg, and Webster, I quote the following:

Whether the government has acted properly is a different question from whether a private person has acted properly in responding to the government's call for help. . . . Because a private person cannot have all the information necessary to assess the propriety of the government's actions, he must be able to rely on official assurances about need and legality.

I strongly believe that the President did act within his Article II executive branch authority in authorizing this program. Even the exclusive means provision in this bill favored by my Democratic Colleagues in the House and Senate acknowledges the President's constitutional authority in stating that certifications to companies for assistance shall identify the statutory provision on which the certification is based ''if a certification . . . is based on statutory authority.'' This clearly indicates the certification could be based on the President's constitutional authority.

But even if one did not agree that the President acted—acted—within the confines of the U.S. Constitution—particularly article II outlines the executive branch's power under the President—why would anyone want to punish the carriers for something the Government called on them to do and assured them was legal? Individuals who believe the Government violated their civil liberties can pursue legal action against the Government, and the bill before us does nothing—I repeat: does nothing—to prohibit a citizen to bring that legal recourse against their Government, the U.S. Government.

As stated so eloquently in the Messrs. Civiletti, Thornburgh, and Webster document, I further quote:

Whether the government has acted properly is a different question from whether a private person has acted properly in responding to the government's call for help. . . . Because a private person cannot have all the information necessary to assess the propriety of the government's actions, he must be able to rely on official assurances about need and legality.

I agree with the conclusions of these three eminent private citizens.

I would like to also call your attention to an important letter sent last week—June 19, 2008—to Senate and House leadership from the Attorney General of the United States and the Director of National Intelligence—that is GEN Michael Mukasey and ADM Michael McConnell—two distinguished public servants now serving America.

Mr. President, I also ask unanimous consent that this letter be printed in the RECORD following my remarks.

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

(See exhibit 3.)

Mr. WARNER. These gentlemen said:

[P]roviding this liability protection is critical to the Nation's security.

They confirmed that the intelligence community cannot obtain the intelligence it needs without—I repeat, without—the assistance from these carriers, companies, and other segments of the private sector. They noted:

It is critical that any long-term FISA modernization legislation contain an effective liability protection provision.

It should be clear from this letter that the Director of National Intelligence and the Attorney General of the United States could not support the bill without explicit retroactive legal protection for the carriers and other segments of the private sector.

It is for these reasons that I urge my colleagues to support H.R. 6304, the FISA Amendments Act, as passed by the House, and to vote against any amendments that intend to strip out or alter the critical civil liability provision or any other section of the bill that is essential to our intelligence community.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, February 1, 2008.

DEAR COLLEAGUES: The FISA Amendments Act, S. 2248, provides limited and narrowly-drawn retroactive civil liability protection to those telecommunication companies that allegedly assisted the government with the President's Terrorist Surveillance Program (TSP). An amendment has been offered to this Act to strike these liability protections in favor of ''substitution,'' a legal mechanism for replacing the companies in the ongoing TSP litigation with the government.

The Senate Intelligence Committee conducted a comprehensive and bipartisan review of the President's TSP, including the issue of carrier liability. The Committee reviewed numerous documents, including the Department of Justice legal opinions and the letters from the government to the companies. The Committee held a number of briefings and hearings involving government and company officials. The Committee also visited the National Security Agency to see firsthand how the TSP worked.

As a result of this extensive review, the Committee concluded that, irrespective of one's opinion of the President's reliance on Article II authority to justify the TSP, those companies that assisted with the TSP did so in good faith and based upon the written representations from the highest levels of government that the program was lawful.

The Committee's bill, reported out on a strong, bipartisan vote of 13–2, reflects our determination that companies that cooperated with the government in good faith should be protected from time-consuming and expensive litigation. It is a matter of fundamental fairness. The Committee rejected the broad immunity proposal sought by the Administration. Our limited immunity provision only covers assistance provided from September 11th to when the TSP was put under court authorization in January of last year. It does not provide protection from criminal prosecution or extend protections to government officials. Any litigation against government officials will continue.

In concluding that civil liability protection for those companies was appropriate, the Committee recognized that allowing the current litigation to continue could: (1) compromise our intelligence sources and methods through ongoing discovery and other litigation proceedings; (2) result in significant loss of business reputation or financial loss for those companies that participated in good faith; (3) jeopardize the personal safety of overseas employees of these companies if it becomes known that the companies assisted the government in fighting terrorism; (4) put taxpayers' dollars at risk for dubious legal claims; and (5) lead to reluctance by these and other companies to cooperate with legitimate requests for assistance in the future.

The substitution amendment sponsored by Senators Specter and Whitehouse does not alleviate any of these concerns. Even if the companies are removed directly from the litigation, discovery would still be allowed to proceed against them. In short, the conduct of the companies would continue to be litigated, raising significant concerns that their identities or details about their assistance will be disclosed. Given the essential role that our private partners play in intelligence collection, we believe that this is simply too great a risk to our national security.

We believe, therefore, that the ongoing litigation against the telecommunication companies should be brought to an immediate close and that the Intelligence Committee's bipartisan determination of good faith should stand. We urge you to support the Intelligence Committee's bill and oppose any effort to modify or strike its civil liability provision.

Sincerely,

JOHN D. ROCKEFELLER IV,
Chairman.
CHRISTOPHER S. BOND,
Vice Chairman.

EXHIBIT 2

[From the Wall Street Journal, Oct. 31, 2007]

SURVEILLANCE SANITY

(By Benjamin Civiletti, Dick Thornburgh and William Webster)

Following the terrorist attacks of Sept. 11, 2001, President Bush authorized the National Security Agency to target al Qaeda communications into and out of the country. Mr. Bush concluded that this was essential for protecting the country, that using the Foreign Intelligence Surveillance Act would not permit the necessary speed and agility, and that he had the constitutional power to authorize such surveillance without court orders to defend the country.

Since the program became public in 2006, Congress has been asserting appropriate oversight. Few of those who learned the details of the program have criticized its necessity. Instead, critics argued that if the president found FISA inadequate, he should have gone to Congress and gotten the changes necessary to allow the program to proceed under court orders. That process is now underway. The administration has brought the program under FISA, and the Senate Intelligence Committee recently reported out a bill with a strong bipartisan majority of 13–2, that would make the changes to FISA needed for the program to continue. This bill is now being considered by the Senate Judiciary Committee.

Public disclosure of the NSA program also brought a flood of class-action lawsuits seeking to impose massive liability on phone companies for allegedly answering the government's call for help. The Intelligence Committee has reviewed the program and has concluded that the companies deserve targeted protection from these suits. The protection would extend only to activities

undertaken after 9/11 until the beginning of 2007, authorized by the president to defend the country from further terrorist attack, and pursuant to written assurances from the government that the activities were both authorized by the president and legal.

We agree with the committee. Dragging phone companies through protracted litigation would not only be unfair, but it would deter other companies and private citizens from responding in terrorist emergencies whenever there may be uncertainty or legal risk.

The government alone cannot protect us from the threats we face today. We must have the help of all our citizens. There will be times when the lives of thousands of Americans will depend on whether corporations such as airlines or banks are willing to lend assistance. If we do not treat companies fairly when they respond to assurances from the highest levels of the government that their help is legal and essential for saving lives, then we will be radically reducing our society's capacity to defend itself.

This concern is particularly acute for our nation's telecommunications companies. America's front line of defense against terrorist attack is communications intelligence. When Americans put their loved ones on planes, send their children to school, or ride through tunnels and over bridges, they are counting on the ''early warning'' system of communications intelligence for their safety. Communications technology has become so complex that our country needs the voluntary cooperation of the companies. Without it, our intelligence efforts will be gravely damaged.

Whether the government has acted properly is a different question from whether a private person has acted properly in responding to the government's call for help. From its earliest days, the common law recognized that when a public official calls on a citizen to help protect the community in an emergency, the person has a duty to help and should be immune from being hauled into court unless it was clear beyond doubt that the public official was acting illegally. Because a private person cannot have all the information necessary to assess the propriety of the government's actions, he must be able to rely on official assurances about need and legality. Immunity is designed to avoid the burden of protracted litigation, because the prospect of such litigation itself is enough to deter citizens from providing critically needed assistance.

As the Intelligence Committee found, the companies clearly acted in ''good faith.'' The situation is one in which immunity has traditionally been applied, and thus protection from this litigation is justified.

First, the circumstances clearly showed that there was a bona fide threat to ''national security.'' We had suffered the most devastating attacks in our history, and Congress had declared the attacks ''continue to pose an unusual and extraordinary threat'' to the country. It would have been entirely reasonable for the companies to credit government representations that the nation faced grave and immediate threat and that their help was needed to protect American lives.

Second, the bill's protections only apply if assistance was given in response to the president's personal authorization, communicated in writing along with assurances of legality. That is more than is required by FISA, which contains a safe-harbor authorizing assistance based solely on a certification by the attorney general, his designee, or a host of more junior law enforcement officials that no warrant is required.

Third, the ultimate legal issue—whether the president was acting within his constitutional powers—is not the kind of question a private party can definitively determine. The companies were not in a position to say that the government was definitely wrong.

Prior to FISA's 1978 enactment, numerous federal courts took it for granted that the president has constitutional power to conduct warrantless surveillance to protect the nation's security. In 2002, the FISA Court of Review, while not dealing directly with the NSA program, stated that FISA could not limit the president's constitutional powers. Given this, it cannot be said that the companies acted in bad faith in relying on the government's assurances of legality.

For hundreds of years our legal system has operated under the premise that, in a public emergency, we want private citizens to respond to the government's call for help unless the citizen knows for sure that the government is acting illegally. If Congress does not act now, it would be basically saying that private citizens should only help when they are absolutely certain that all the government's actions are legal. Given the threats we face in today's world, this would be a perilous policy.

EXHIBIT 3

JUNE 19, 2008.

Hon. NANCY PELOSI, Speaker,
House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This letter presents the views of the Administration on the Foreign Intelligence Surveillance Act of 1978 (''FISA'') Amendments Act of 2008 (H.R. 6304). The bill would modernize FISA to reflect changes in communications technology since the Act was first passed 30 years ago. The amendments would provide the Intelligence Community with the tools it needs to collect the foreign intelligence necessary to secure our Nation while protecting the civil liberties of Americans. The bill would also provide the necessary legal protections for those companies sued because they are believed to have helped the Government prevent terrorist attacks in the aftermath of September 11. Because this bill accomplishes these two goals essential to any effort to modernize FISA, we strongly support passage of this bill and will recommend that the President sign it.

Last August, Congress took an important step toward modernizing FISA by enacting the Protect America Act of 2007. That Act allowed us temporarily to close intelligence gaps by enabling our intelligence professionals to collect, without having to first obtain a court order, foreign intelligence information from targets overseas. The Act has enabled us to gather significant intelligence critical to protecting our Nation. It has also been implemented in a responsible way, subject to extensive executive, congressional, and judicial oversight in order to protect the country in a manner consistent with safeguarding Americans' civil liberties. Since passage of the Act, the Administration has worked closely with Congress to address the need for longterm FISA modernization. This joint effort has involved compromises on both sides, but we believe that it has resulted in a strong bill that will place the Nation's foreign intelligence effort in this area on a firm, long-term foundation. Below, we have set forth our views on certain important provisions of H.R. 6304.

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

Title I of H.R. 6304 contains key authorities that would ensure that our intelligence agencies have the tools they need to collect vital foreign intelligence information and would provide significant safeguards for the civil liberties of Americans.

Court Approval. With respect to authorizations for foreign intelligence surveillance directed at foreign targets outside the United States, the bill provides that the Foreign Intelligence Surveillance Court (FISC) would review certifications made by the Attorney General and the Director of National Intelligence relating to these acquisitions, the reasonableness of the procedures used by the Intelligence Community to ensure the targets are overseas, and the minimization procedures used to protect the privacy of Americans. The scope of the FISC's review is carefully and rightly crafted to focus on aspects of the acquisition that may affect the privacy rights of Americans so as not to confer quasi-constitutional rights on foreign terrorists and other foreign intelligence targets outside the United States.

We have been clear that any satisfactory bill could not require individual court orders to target non-United States persons outside the United States, nor could a bill establish a court-approval mechanism that would cause the Intelligence Community to lose valuable foreign intelligence while awaiting such approval. H.R. 6304 would do neither and would retain for the Intelligence Community the speed and agility that it needs to protect the Nation. The bill would establish a schedule for court approval of certifications and procedures relating to renewals of existing acquisition authority. A critical feature of the H.R. 6304 would allow existing acquisitions, which were the subject of court review under the Protect America Act or will be the subject of such review under the H.R. 6304, to continue pending court review. With respect to new acquisitions, absent exigent circumstances, Court review of new procedures and certifications would take place before the Government begins the acquisition. The exigent circumstances exception is critical to allowing the Intelligence Community to respond swiftly to changing circumstances when the Attorney General and the Director of National Intelligence determine that intelligence may be lost or not timely acquired. Such exigent circumstances could arise in certain situations where an unexpected gap has opened in our intelligence collection efforts. Taken together, these provisions would enable the Intelligence Community to keep closed the intelligence gaps that existed before the passage of the Protect America Act and ensure that it will have the opportunity to collect critical foreign intelligence information in the future.

Exclusive means. H.R. 6304 contains an exclusive means provision that goes beyond the exclusive means provision that was passed as part of FISA. As we have previously stated, we believe that the provision will complicate the ability of Congress to pass, in an emergency situation, a law to authorize immediate collection of communications in the aftermath of an attack or in response to a grave threat to the national security. Unlike other versions of this provision, however, the one in this bill would not restrict the authority of the Government to conduct necessary surveillance for intelligence and law enforcement purposes in a way that would harm national security.

Oversight and Protections for the Civil Liberties of Americans. H.R. 6304 contains numerous provisions that protect the civil liberties of Americans and allow for extensive executive, congressional, and judicial oversight of the use of the authorities. The bill would require the Attorney General and the Director of National Intelligence to conduct semiannual assessments of compliance with targeting procedures and minimization procedures and to submit those assessments to the FISC and to Congress. The FISC and Congress would also receive annual reviews relating to those acquisitions prepared by the heads of agencies that use the authorities

contained in the bill. Congress would receive reviews from the Inspectors General of these agencies and of the Department of Justice regarding compliance with the provisions of the bill. In addition, the bill would require the Attorney General to submit to Congress a report at least semiannually concerning the implementation of the authorities provided by the bill and would expand the categories of FISA-related court documents that the Government must provide to the congressional intelligence and judiciary committees.

Title I also includes provisions that would protect the civil liberties of Americans. For instance, the bill would require for the first time that a court order be obtained to conduct foreign intelligence surveillance outside the United States of an American abroad. Historically, Executive Branch procedures guided the conduct of surveillance of a U.S. person overseas, such as when a U.S. person acts as an agent of a foreign power, e.g., spying on behalf of a foreign government. Given the complexity of extending judicial review to activities outside the United States, these provisions were carefully crafted with Congress to ensure that such review can be accomplished while preserving the necessary flexibility for intelligence operations. Other provisions of the bill address concerns that some voiced about the Protect America Act, such as clarifying that the Government cannot ''reverse target'' without a court order and requiring that the Attorney General establish guidelines to prevent this from occurring. We believe that, taken together, these provisions will allow for ample oversight of the use of these new authorities and ensure that the privacy and civil liberties of Americans are well protected.

II. TITLE II—PROTECTIONS FOR ELECTRONIC COMMUNICATIONS SERVICE PROVIDERS

Title II of the bill contains, among other provisions, vital protections for electronic communications service providers who assist the Intelligence Community's efforts to protect the Nation from terrorism and other foreign intelligence threats. Title II would provide liability protection related to future assistance while ensuring the protection of sources and methods. Importantly, the bill would also provide the necessary legal protection for those companies who are sued only because they are believed to have helped the Government with communications intelligence activities in the aftermath of September 11, 2001.

The framework contained in the bill for obtaining retroactive liability protection is narrowly tailored. An action must be dismissed if the Attorney General certifies to the district court in which the action is pending that either: (i) the electronic communications service provider did not provide the assistance; or (ii) the assistance was provided in the wake of the September 11 attack and was the subject of a written request or series of requests from a senior Government official indicating that the activity was authorized by the President and determined to be lawful. The district court would be required to review this certification before dismissing the action, and the provision allows for the participation of the parties to the lawsuit in a manner consistent with the protection of classified information. The liability protection provision does not extend to the Government or to Government officials and it does not immunize any criminal conduct.

Providing this liability protection is critical to the Nation's security. As the Senate Select Committee on Intelligence recognized, ''the intelligence community cannot obtain the intelligence it needs without assistance from these companies.'' That committee also recognized that companies in the future may be less willing to assist the Government if they face the threat of private lawsuits each time they are believed to have provided assistance. Finally, allowing litigation over these matters risks the disclosure of highly classified information regarding intelligence sources and methods. As we have stated on many occasions, it is critical that any long-term FISA modernization legislation contain an effective liability protection provision. H.R. 6304 contains just such a provision and for this reason, as well as those expressed with respect to Title I above, we strongly support its passage.

III. TITLE III—REVIEW OF PREVIOUS ACTIONS

Title III would require the Inspectors General of the Department of Justice, the Office of the Director of National Intelligence, and of certain elements of the Intelligence Community to review certain communications surveillance activities, including the Terrorist Surveillance Program described by the President. Although improvements have been made over prior versions of this provision, we believe, as we have written before, that it is unnecessary in light of the Inspector General reviews previously completed, those already underway, and the congressional intelligence and judiciary committee oversight already conducted. Nevertheless, we do not believe that, as currently drafted, the provision would create unacceptable operational concerns. The bill contains important provisions to make clear that such reviews should not duplicate reviews already conducted by Inspectors General.

IV. TITLE IV—OTHER PROVISIONS

Title IV contains important provisions that will ensure that the transition between the current authorities and the authorities provided in this bill will not have a detrimental effect on intelligence operations.

Title IV also states that the authorities in the bill sunset at the end 2012. We have long favored permanent modernization of FISA. The Intelligence Community operates more effectively when the rules governing our intelligence professionals' ability to track our enemies are firmly established. Stability of law also allows the Intelligence Community to invest resources appropriately. Congress has extensively debated and considered the need to modernize FISA since 2006, a process that has involved numerous hearings, briefings, and floor debates. The process has been valuable and necessary, but it has also involved the discussion in open settings of extraordinary information dealing with sensitive intelligence operations. Every time we repeat this process it risks exposing our intelligence sources and methods to our adversaries. Although we would prefer that H.R. 6304 contain no sunset, a sunset in 2012 is significantly longer than others that were proposed and it is long enough to avoid impairing the effectiveness of intelligence operations.

Thank you for the opportunity to present our views on this crucial bill. We reiterate our sincere appreciation to the Congress for working with us on H.R. 6304, a long-term FISA modernization bill that will strengthen the Nation's intelligence capabilities while respecting and protecting the constitutional rights of Americans. We strongly support its prompt passage.

Sincerely,

MICHAEL B. MUKASEY,
Attorney General.
J.M. MCCONNELL,
Director of National Intelligence.

The PRESIDING OFFICER. The Senator from Michigan.

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

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

Ms. STABENOW. Thank you, Mr. President.

MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT

We are at a critical point today for 44 million Medicare beneficiaries—seniors, people with disabilities—and the physicians, the health care providers, who serve them. We are at a critical point.

I am very hopeful we are not going to see this number go up—the number of filibusters that have been done on the other side of the aisle. I am very hopeful this number is not going to go from 78 to 79 over the Medicare legislation that is in front of us.

We have already seen a filibuster in a successful effort to stop the Medicare bill that would make sure that the 10-percent cut for physicians does not take place and that other preventative and other access issues are addressed. That is already part of these 78 filibusters. We have already seen the Medicare bill filibustered.

But today we are hopeful, based on the wonderful bipartisan vote of 355 Members of the House of Representatives, that as we come back with their bill that was passed—and I should mention, based on the bill that was crafted by Senator BAUCUS; and I wish to give him tremendous credit for all the hard work he has done; and I am proud to be a member of the Finance Committee, as the distinguished Presiding Officer is—but the House, based on the work of the Senate, as well, has passed, with 355 votes, on a bipartisan basis, a bill to make sure 44 million seniors and people with disabilities do not find themselves worse off as it relates to being able to get a doctor or being able to get the care they need.

So we are at a crossroads right now. The time is up. As of next Tuesday, July 1, a cut will take effect if we do not act. On top of that, we will not see the other beneficial parts of this bill take effect for our seniors, for people with disabilities, for their families. So we are now at a point where it is decisionmaking time. The House has acted. It is my understanding they will, in fact, be adjourning at the end of today, and we will be in a situation to either act, based on a strong bipartisan vote and a tremendous amount of work that has been done in the Senate, or we will see devastating consequences in the Medicare system.

I do not want to see this number go from 78 to 79 because of a filibuster on a critically important Medicare bill. That is what we are talking about. This legislation itself is good public policy. That is why it received the 355 votes that it did, because it not only stops the cut, the 10-percent cut that is scheduled to take place next Tuesday, July 1—which, by the way, is the result of a fatally flawed sustainable growth rate formula, which I have talked about many times on this floor—we have to change the way what is called

the SGR is set up in terms of physician payments—this would not only stop a major cut for physicians that translates into cuts in service for Medicare beneficiaries, but it also does some other very important things that relate to increasing service.

First, let me say that if the cut were to take effect, we are talking about in Michigan alone losing $540 million—$540 million—for the care of seniors and people with disabilities over the next 18 months—only 18 months, $540 million, if we do not act before next Tuesday.

Right now, as to the 20,000 M.D.s and D.O.s in Michigan who provide high-quality care to 1.4 million seniors and people with disabilities and the over 90,000 TRICARE beneficiaries—our men and women in the military—we would see cutbacks in their staffing, in their ability to provide service.

I have heard so many stories from physicians' practices about what all of this means. At a time when more and more people are going into Medicare, as our country is aging, we do not need to see cutbacks that mean there are fewer physicians available to treat our senior citizens and people with disabilities. That is what that means. That is what this will mean if we do not act.

Additionally, the bill provides important and meaningful protections. We are looking at increasing help for low-income seniors, low-income individuals on Medicare who will be able to get additional assistance. It also improves coordination in a number of areas and addresses what we call mental health parity—being able to make sure that mental health services are treated in the same way as public health services. This is something we have gone on record to address in this body in a bipartisan basis on more than one occasion. In this Medicare bill, we address discrepancies between mental health services and physical health services, all of which are the same thing, in my mind. This is a continuum of care in terms of health care. But that is addressed in this bill and has very strong support.

The bill also addresses very important investments in technology for the future—investments that won't take place, such as electronic medical records that will not be developed if, in fact, we see huge cuts in Medicare, rather than investing in the future and investing in technology.

The legislation in front of us would do two things in the area of technology. We would provide additional opportunities for telehealth—more providers, more facilities that would be able to use and be reimbursed for telehealth—and we focus on e-prescribing, which is the first stage of health information technology, bringing it into the 21st century in terms of our health care system and technology.

I am very proud of Michigan. We have been one of the leaders in both of these areas. In telehealth, in the upper peninsula of Michigan, we have had 15 counties that have been connected through the health care system. We have had the opportunity to see how well telemedicine works for all of our seniors, for people with disabilities, for families in general in the UP, as well as in northern Michigan and all around Michigan, including our rural communities, as well as in many of our urban communities. Telehealth is very important and it is expanded in this Medicare bill with more access to care.

We also address the first building block of health information technology, and that is e-prescribing. There are incentives for physicians to use e-prescribing and there is accountability in that arena. This is another area I have to say that I am proud of my State of Michigan for, because we have spent a lot of time and effort, and we have gotten real results for people, in terms of saving lives and saving money as it relates to e-prescribing. We have a group called the Southeastern Michigan E-prescribing Initiative, our auto industry, the United Auto Workers, BlueCross and BlueShield, and many of our businesses and providers have come together and found extraordinary results.

One of the things that I think is so important about e-prescribing is when you have an e-prescribing system, an electronic system where your current medicines can then be compared with any new prescription that the physician wishes to write, they are finding very important safety and quality results. For instance, 423,000 prescriptions that were originally written by physicians were changed or canceled by the doctor once they received very important information about potential allergic reactions or some other interaction with the other medicines their patient was on. So this is very important information that is available. We also know that 39 percent of the time, the physician, given more information, changed the prescription to save the patient and the employer money; being able to offer the option of more generic drugs. So there are huge benefits to e-prescribing. On top of that, you can read the physician's handwriting, and I say that lovingly to all of my physician friends.

But we are in a situation now where we have a bill in front of us that not only stops cuts that would be devastating but looks to the future in terms of electronic e-prescribing, in terms of telehealth, preventive services, helping low-income seniors and people with disabilities, being able to provide mental health parity; a number of areas that while they overall are low in cost are huge in benefit in terms of savings lives. In fact, there are many places in this bill where we are talking about saving dollars at the same time we are saving lives.

I am also very pleased with the fact that the bill addresses a number of health disparities that face those who receive Medicare based on the legislation I have introduced with, in fact, all of the women Members of the Senate—all 16 women Members. We have cosponsored the HEART for Women Act, which begins to gather gender and race data to determine gaps in coverage around heart disease. We are now using similar language in the Medicare bill to collect more data for researchers about disparities around health treatments and so on.

The bottom line is this is a must-pass bill, and we need to pass it now. Time is running out. In fact, in my mind, time has run out. It is now time to act today. When our leader, Senator REID, who is very committed to this legislation, committed to Medicare, came to the floor and asked for unanimous consent to be able to take up the Medicare bill, there were objections again. I am very concerned that those objections are going to be leading to another filibuster, another filibuster vote coming in the next day or few days.

I hope colleagues are aware that the American Medical Association strongly supports this bill and has been actively involved in promoting the bill and urging all of us to support the bill. The AARP, a leading seniors' organization, has endorsed the House bill as well. I will read a portion of their letter. AARP's letter notes:

> Our members have also stressed strong interest in knowing how their elected officials vote on key issues that affect older Americans. Given the importance of the Medicare legislation, we will be informing them how their Senators vote on this legislation when it comes to the Senate floor.

There is great concern among people around the country watching and waiting. People are asking what is taking us so long and why haven't we acted. We have legislation that we worked through on a bipartisan basis here in the Senate, and it has now passed by 355 votes in the House of Representatives. You can't get much better than that vote. This bill has now come over to us and it is time for us to act.

I thank again Chairman BAUCUS for his leadership and his hard work. I also thank my good friends in the House, Chairman RANGEL and Chairman DINGELL, for their work on behalf of Medicare beneficiaries and physicians. I stand squarely behind this bill. I was proud to introduce legislation a number of months back to address the question of physician payment and the need to change the process and the way this is done fundamentally. I am so pleased that the bill in front of us mirrors the 18-month bill I introduced and adds to it some critically important changes, critically important incentives to modernize the system with telehealth and more access to health care, modernize the system as it relates to electronic prescribing, and does more to make sure our low-income seniors receive the help they need, and makes sure that we are, in fact, providing a more equitable system where mental health and physical health payments and services are looked at in the same kind of way. This is very important. Focusing more on prevention is very important.

The bottom line is we have 44 million Americans who rely on Medicare every day. Medicare is a great American success story. It passed in 1965. It is a great American success story that has brought healthier lives through better medical care as well as opportunities for longer lives for millions and millions of Americans. Access to those services is jeopardized seriously if we do not pass this bill. The ability to expand on services and prevention is also in jeopardy if we do not pass this bill.

I am hopeful we will come together, as our House colleagues have done, and stand on a bipartisan basis in support of our providers, our health care providers and, most importantly, those men and women who are counting on us to keep the Medicare system strong for the future. I am hopeful we will not see another filibuster stopping us from addressing the important issues of Medicare. This needs to be done today.

Mr. President, I yield the floor and 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. SESSIONS. 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.

Mr. SESSIONS. Mr. President, I ask unanimous consent to speak as in morning business for a few minutes.

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

TANKER AIRCRAFT COMPETITION

Mr. SESSIONS. Mr. President, we heard a good bit recently and there has been some discussion in the Senate about the competition for the tanker aircraft that was decided by the Air Force in favor of the Northrop Grumman team.

The Government Accountability Office team of lawyers—not technicians—conducted a review of the procedures utilized in that selection process, in light of 111 objections filed by the losing Boeing team. They concluded that eight objections were merited against the procedural conduct of the competition by the Air Force. Now the ball is back in the lap of the Air Force to review those objections and to take appropriate steps to make sure this is a fair and just competition.

I will just say that I was committed in the beginning and throughout this process that it should be a nonpolitical decision, a decision made by the U.S. Air Force based on the criteria set out in law, based on the fact that the Congress, after an attempt had been made to carry out a sole-source lease agreement for the Boeing aircraft—after that was rejected and after great embarrassment to the Air Force and Boeing, we ordered that a bid take place.

I want my colleagues to understand the posture we are in. At the end of the bid process, the Air Force concluded this:

> While [the] KC–767 offers significant capabilities, the overall tanker/airlift mission is best supported by the KC–30.

The Northrop team.

They go on to say:

> [The] KC–30 solution is superior in the core capabilities of fuel capacity/offload, airlift efficiency, and cargo/passenger/aeromedical carriage.

On the most important factors, the core capabilities, they found that the Northrop team's aircraft was superior.

GAO did not overrule those findings. In fact, the contrary is the case. What GAO said was in this very long, complex RFP request for proposal—and legal requirements of bidding processes, the Air Force made some errors. Mr. President, 111 complaints were raised against the Air Force, but 8 were found to be worthy of objection.

In the course of GAO's evaluation of the procedural conduct of the bid process, they reached these conclusions that I think have been overlooked as people have discussed this issue. For example, the GAO stated and did not dispute this:

> Northrop Grumman's proposed aircraft exceeded to a greater degree than Boeing's aircraft a key performance parameter objective to exceed the RFP's identified fuel offload to the receiver aircraft versus the unrefueled radius range of the tanker.

In other words, GAO concluded and agreed that the KC–45 is more capable at refueling than the Boeing aircraft, which is what the Air Force found. They did not object to that point.

In addition to carrying more fuel, which clearly the Northrop team's aircraft does, the GAO also agreed with the Air Force's professional conclusion that it would be easier—and this is important—it would be easier for pilots to refuel their jet fighters, for example, from the Northrop KC–45. This is an important issue.

The GAO said:

> Boeing also protests the Air Force's conclusion in the aerial refueling area that Northrop Grumman's proposed larger boom envelope—

The spread of the refueling booms—

> proposed larger boom envelope offered a meaningful benefit to the Air Force. From our review of the record, including hearing testimony on this issue, we do not find a basis to object to the Air Force's judgment that Northrop Grumman had offered a larger boom envelope and that this offer provided measurable benefit.

Further, the GAO also supported the Air Force's conclusion that Northrop's KC–45 was a better airlifter.

GAO said:

> Boeing also challenges the Air Force's evaluation judgment in the airlift area that Northrop Grumman's proposed aircraft offered superior cargo, passenger, and aeromedical evacuation capability than did Boeing's aircraft. From our review of the record, including the hearing testimony, we see no basis to conclude that the Air Force's evaluation that Northrop Grumman's aircraft was more advantageous in the airlift area is unreasonable.

That is a big issue. Every combatant commander with whom I have talked and who has had to move troops, cargo, personnel, and equipment to the battlefield knows the critical need for as much airlift capability as they can have. These refueling tankers can also serve as a cargo aircraft and a troop movement aircraft. Clearly, the Northrop Grumman aircraft is more advantageous, according to the Air Force's professional finding. And that was approved by the GAO's analysis.

The GAO also found and upheld the Air Force's holding that Northrop Grumman had a higher ''fleet effectiveness'' rating. Fleet effectiveness—also called IFARA—reflects ''the quantity of an offeror's aircraft that would be required to perform the scenarios in relation to the number of KC–135R aircraft that would have been required.'' Put simply, to boil that down, the Air Force judged that one Northrop plane could do more refueling more efficiently than one Boeing plane. And the GAO upheld that finding.

GAO found no fault with the Air Force's conclusion that Boeing's proposal was more risky in certain areas and that their past performance on similar contracts was ''marginal.''

The GAO said:

> We find from our review of the record no basis to object to the Air Force's past performance evaluation, under which both firms' past performance received a satisfactory confidence rating. We also find no basis to question the SSA's judgment that, despite equal confidence ratings that the firms received under this factor overall, Northrop Grumman's higher ''satisfactory confidence'' rating, as compared to Boeing's ''little confidence'' rating, under the program management area, was a reasonable discriminator. The Air Force evaluated Boeing's past performance as marginal in this area . . . We have no basis, on this record, to find the Air Force's judgment unreasonable.

What that means is they evaluated how well both of the bidders, Northrop Grumman and Boeing, have performed in other contracts in the past and found that Boeing's record was less sound. They were less reliable in performing the contract once they had been awarded it, and they gave extra points for that. That was affirmed by the GAO.

Amidst all the discussion of procedure and KKPs, RFPs, and dotted i's and crossed t's, what did the GAO say in this matter? They said the Air Force picked a plane that could carry and offload more fuel more efficiently and in a more desirable way for the pilots. They also found that the plane's secondary mission, airlift, that can be very critical in a national emergency when we have to move cargo and personnel rapidly around the world would be accomplished more effectively by the Northrop aircraft. Finally, GAO agreed that the Northrop plane was lower risk and that Boeing had marginal past performance.

So as we allow this process to proceed, as it should, as we expect the Air Force to take seriously the matters raised by the GAO, we will adhere to one overriding principle; that is, Congress ordered that the Air Force conduct a bid of which would be the best

aircraft. This bid process was conducted by the Air Force as we as Members of Congress directed. I, as a lawyer, am not capable of flying an aircraft. Nor am I capable of analyzing aerodynamics and validating how much weight or wingspan or how much boom coverage is needed to safely refuel multiple aircraft at one time. I cannot fully evaluate how valuable the ability to carry large amounts of fuel is as compared to an aircraft that carries less, but the Air Force is. What we need to do is make sure the Air Force does its job and selects the best aircraft. I strongly object to any attempt to politicize this process.

Finally, I note that this aircraft would be constructed in Alabama, my home State. It is not going to be built around the world in some foreign land. It is a team headed by Northrop Grumman, also the EADS team. It will be an aircraft constructed in our country, with tens of thousands of jobs created in our country.

I thank the Chair for the opportunity to share these remarks. I hope my colleagues will allow this process to proceed in a professional, lawful way and respect and honor the professional decision of the Air Force, which will have to live with this choice of tanker for perhaps another 50 years, like the current tanker.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, so that we can lock in a couple of things, I ask unanimous consent to speak as in morning business, and then I would be followed by the junior Senator from Pennsylvania.

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

ZIMBABWE

Mr. INHOFE. Madam President, I thank the junior Senator from Pennsylvania for allowing me to go ahead of him on something I think is very significant and something with which I am sure he agrees.

Today, I want to call attention to a place that has been lost in the sea of many other conflicts and crises plaguing our world—Zimbabwe, a country slightly bigger than the State of Montana which sits in the southeastern portion of Africa. It has faced and continues to face difficult challenges and untold sufferings caused by an authoritarian and corrupt leader, Robert Mugabe.

After fighting a long battle and civil war, Zimbabwe gained independence in 1980 from the white Rhodesians. Independence came with an envisioned sense of hope. Everyone thought good things were going to happen, and the President that was elected was a man named Robert Mugabe. But the honeymoon quickly ended with the realization that newly elected President Mugabe had fought the war to gain personal power and control rather than to provide freedom and democracy for its people.

In the 1990s, the country continued to weaken under the self-centered leadership of Mugabe. As the Book of Proverbs—Solomon—tells us: ''Where there is no vision, the people perish.'' That is what is happening in Zimbabwe.

Robert Mugabe failed to provide a vision for his country, focusing solely upon himself and his ability to remain in power. The people of Zimbabwe have suffered dramatically as a consequence.

In a country that once showed evidence of steady economic growth—a country, I recall, that was considered one of the wealthiest countries in Africa; that was considered to be the bread basket of Africa—it has now been named the world's fastest shrinking economy.

In 2007, inflation rose above 8,000 percent. Unemployment is estimated at 80 percent, and 80 percent of the population lives on less than $2 a day. Mugabe's leadership has been such a disgrace. Throughout almost 30 years of his leadership, nearly 28 years, he has worked to tighten his rein over the nation by intimidation, violence, and oppression.

In 2002, the Government initiated a farmland redistribution program which resulted in 400,000 farmers losing their homes and livelihood. The program resulted in scandal and embarrassment to Mugabe when investigations revealed that more than 300 farms were intended for his senior officials and ministers rather than for resettlement. In other words, these were payoffs to his political friends.

In 2005, Mugabe initiated one of the most inexcusable incidents of his Presidency. Operation Murambatsvina—or translated, Operation Clean Out the Filth—was a demolition project the Government claimed was designed to reduce crime in the major city. It resulted in an estimated 700,000 Zimbabweans losing their homes. Twenty percent of the population has been reported as affected by the demolitions.

Many people thought this was a political move aimed at squashing any potential protests or uprisings against the regime and displacing the opposition party base. Not only has Mugabe's actions displayed his blatant disregard for the well-being of his people, but he has also expressed this in his own words. In August of 2006, after a violent crackdown on a peaceful protest by the Zimbabwean union, Mugabe said he had warned, prior to the incident, that security forces ''will pull the trigger'' against the protesters.

Mugabe said this:

> Some people are now crying foul that they were assaulted. Yes, you get a beating. When the police say move, move, if you don't move, you invite the police to use force.

Many believe that the farmland redistribution and Operation Clean Out the Filth contributed drastically to the poverty affecting the Zimbabweans. The Government has accused food aid agencies of using food to turn Zimbabwe away from Mugabe's ruling party, and, in turn, continues to maintain tight control of food distributions.

The totalitarian regime has, not surprisingly, placed a very significant emphasis on their military and security forces. In 2006, the Government reportedly spent more than $20 million—that is 20 million U.S. dollars—to purchase new cars for police, military, and intelligence officers. In a dying economy, it is stunning that Zimbabwe is able to buy high-priced military articles, to include their recent purchase of fighter jets from China costing more than $240 million.

As you know, Madam President, China has an increasing influence on the continent of Africa, but their relationship and long support of Mugabe's ZANU–PF Party is concerning. China is currently Zimbabwe's largest investor and second largest trading partner. As most Western countries, including the United States, enforce an arms embargo against the country, China continues to sell defense articles to the regime. Most recently, South Africa refused to let a Chinese cargo ship unload because it was carrying more than 70 tons of small arms destined for Zimbabwe.

China has also played a significant role in diplomacy in Zimbabwe. China was Mugabe's key supporter through the international outrage in response to Operation Clean Out the Filth. China worked to quiet the U.N. condemnation of the incident and is now expected to veto any proposed action by the Security Council to punish Mugabe's administration—which, of course, they can do under the rules of the United Nations. China's persistent support and supply to Mugabe's regime demonstrates their indifference to the violence, oppression, and potential civil war looming in the country.

On March 29, 2008, Zimbabwe held Presidential elections along with parliamentary and local elections. I am very familiar with this, Madam President, because I was there when it happened. I was actually in Tanzania, and we were watching very carefully, with all the countries, all hoping that they would have an honest election. Sure enough, Mugabe lost. The incumbent President Mugabe ran for the ZANU–PF Party, and a man named Morgan Tsvangirai for the Movement for Democratic Change Party.

The election process was tainted with intimidation of voters and violence against the opposition party and supporters of the opposition. Political rallies were banned. The opposition party's secretary general was jailed, denied bail, tried for treason, and may face the death penalty. There are also reports that the regime is restricting access to food in opposition areas, threatening already hungry people to either vote for Mugabe or to starve.

The results of the race, finally released in May, indicated that the MDC opposition leader won the election but didn't quite reach the 50 percent, so

there was a runoff that was scheduled for Friday—that is this Friday, the 27th. Sadly, this week, the opposition leader, because of threats on his life, pulled out of the race and refused to take part in what he calls ''a sham of an election process.'' He said he cannot ask Zimbabweans to vote ''when that vote could cost them their lives.'' He has taken refuge now in the Embassy of the Netherlands.

Mugabe has clearly stolen the election, and the outlook for true reform for democracy for the people of Zimbabwe looks very bleak at this time.

As I have traveled across the continent—and I have traveled across Africa more than any other Member probably in the history of America—I have seen wonderful things happening on the continent. Whether it is Rwanda, Burundi, Tanzania, Uganda, Ghana, Benin, or Cote d'Ivoire, in these countries wonderful things are happening. They are making great strides everywhere except Zimbabwe. While Mugabe leads Zimbabwe away from reaching its full potential, there are other leaders on the continent who have chosen a vision of democracy, freedom, and progress in their countries. And while not perfect, each is making improvements and taking strides to improve democratic practices and exercising the free political will.

Mugabe will never allow his people to decide the next phase and direction of their country. I think we should call on the African leaders, which I have done personally in Africa—many of whom are my friends and brothers—and leaders all over the world to do what we can to help the people of Zimbabwe.

I have to say, Madam President, and I speak firsthand because I was there when this happened, that Zimbabwe was once the bread basket of sub-Sahara Africa, and I have seen Zimbabwe now, the most devastated of all the 52 countries of the continent of Africa.

With that, I yield the floor, and again I thank my friend from Pennsylvania for allowing me to go before his presentation.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, the Senator from Pennsylvania is now, under previous consent, going to be recognized, and it is my understanding as well that the Senator from Rhode Island, Senator WHITEHOUSE, would like to follow him. I ask unanimous consent that following both Senator CASEY and Senator WHITEHOUSE that I be recognized.

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

The Senator from Pennsylvania is recognized.

RISING GAS PRICES

Mr. CASEY. Madam President, I rise today to talk about a problem so many of our families are facing and so many of our businesses, and that is the problem of rising gas prices. Unfortunately, we have seen an increase of at least $1 at the pump in just 1 year.

Like a lot of my colleagues in the Senate, I just received a letter from a woman in Pennsylvania, 86 years old, from Bucks County, PA, and she talked about, in her letter, the Great Depression, when she was describing how people had nothing and how worried she is about our current economic crisis, especially in light of these gas prices. She reminds us that, just as in the Great Depression, we need to have commonsense solutions to dig ourselves out of the economic trauma so many families face.

Today, whether it is on gas prices, the cost of health care, or the mortgage foreclosure crisis that has gripped the country, we do need commonsense solutions. We don't need more gimmicks, we don't need more partisan bickering, we need commonsense solutions. And those solutions on gas prices are not a magic wand. No piece of legislation in the Senate will bring down gas prices immediately. We know that. Anyone who says otherwise is not speaking the truth. But there are things that we can do to at least begin the process, or go down that road, I should say, of bringing those prices down.

We have to move in a direction that focuses on short-term solutions as well as long-term—short term and long term. We will talk about those in a couple of moments, but, in particular, I think we should focus on one problem where I think there is even some bipartisan agreement on, and that is speculation in the oil futures market. We have never seen it like it is now, where profiteers from places in this country but also from around the world, literally make money, in some cases millions of dollars, every time that price of gasoline goes up.

So we have to bring some discipline and some accountability and some transparency to the marketplace. And speculation is one area where we need to have legislation. That would help more short term than long term.

How about big oil? They have a role to play. By one estimate, the five biggest oil companies, over 5 years, have seen their profits go up by five times. I don't think there are many families in America who have seen their bottom line, their family income, go up by five times over 5 years, and big oil has seen that. Just since 2001, their profits have increased over $600 billion. Now, if their profits are going up at that rate since 2001, and if the price of gasoline under this administration went up from $1.46 or $1.47 to $4—and on top of all that, in addition to those oil company profits, the previous Congress gave them $17 billion in tax breaks—something is wrong. This is beyond inequitable; it is just bad policy. It is not working.

What we are seeing is the status quo. We keep giving oil companies tax breaks hoping their hearts are big enough to help us and it will all work out, but that hasn't happened, and it will never happen in light of what we have seen in recent history. So it is about time for big oil to do what President Kennedy implored us to do many years ago, and that is to do something for their country at this time of record profits for them and pain at the pump and this economic squeeze that so many families and small businesses face.

What can we do? A couple of things. First, we could enact legislation such as the legislation I proposed in 2007, way back in the spring of 2007. My bill was the Energy Security and Oil Company Accountability Act. It would do basically two things. I will describe it very quickly.

First, end those tax breaks for big oil. They have gotten enough and we have not seen any results for those tax breaks. End those breaks and other credits our Government gave them and use those savings to our Government not just to sit there, but use those savings to invest in research and development on alternative fuels and the infrastructure we need to bring alternative fuels to the marketplace and to help us with our energy challenges. That is No. 1: End the breaks.

No. 2, under my legislation, impose a windfall profits tax on big oil and use that savings to redirect those dollars for relief for our families, especially low-income families who are trying to make ends meet. They are trying to pay for health care, they are trying to pay for a mortgage, trying to pay for higher education, and on top of that they are paying $4 or more at the pump. It is time oil companies helped us in this process.

My legislation would do those two things. I was happy the major part of my legislation from 2007 made its way into what Democrats in the Senate proposed a couple of weeks ago, legislation that was blocked and obstructed by the Republicans in the Senate. The Consumer First Energy Act would do a number of things. I will describe that quickly.

First, getting back to our point about speculation, this legislation, the Consumer First Energy Act, would finally at long last do something about market speculation. Why should we sit back and say: Gas prices are too high; it is too bad; there is nothing we can do about it.

There is something we can do about it. One part of the solution, one part of the commonsense approach—and I think my colleagues on the other side would agree with this for the most part—is we should bring more transparency to these transactions. This raw speculation is all over the world, but it is even here in America, where profiteers are making money while the price of gasoline goes up for our families. They are literally trading in the dark.

You know the old expression that sunlight is the best disinfectant to corruption—which is one of the best ways to describe what is happening here. To

take the corruption out of that marketplace, we need to apply some sunlight to those transactions. If the transactions are OK and people want to make a lot of money, why shouldn't we have information about those transactions? Apply some sunlight and transparency to those transactions. If people are going to make money, they ought to do it in the light of day, not under cover of darkness. If it is so good to do and they want to make money, these profiteers, and do well in the marketplace, we ought to require them to have more stake in the transaction, more skin in the game, so their margins, what they have to put down, should be a much higher number. If they want to make money, we want more transparency on those transactions and we want them to put down more money. If they do that, they will have the opportunity to make money.

The first thing this legislation does is crack down on speculation. The legislation the Senate Democrats offered, the Consumer First Energy Act, also made it very clear that, at long last, in American law, price gouging is illegal. It is at best murky right now. We have to be very clear about what price gouging is and what it is not, and make it illegal.

The other thing this legislation did was adopt the idea I had, and many others had—I am not the only one—on the issue of the windfall profits tax, saying to oil companies: You can have profits; there is nothing wrong with that; but if you are going to have record profits while American families do not have their income going up, you have to help us. You have to do, as I said before, something for your country, Mr. Oilman, Mr. Oil Company. You have to do something to help your country.

If you are diversifying and helping us reduce our dependence on foreign oil, if you are giving us options to reduce our dependence and have a long-term energy strategy, then maybe the profits tax on your company wouldn't be as high. But if you are going to turn a blind eye to this problem and say you are going to make record profits and not help, we are going to impose a tax on you and make sure you are doing your share—especially when the oil companies have made $600 billion since 2001.

There are other parts of the Consumer First Energy Act I will not go into in the interest of time. But there are things we can do. These are short-term strategies. But the long-term solution here we know is committing ourselves to future of energy independence. That means investing dollars, using the Tax Code, using incentives to do what Americans do best. When Americans have an opportunity to use their brainpower and their innovation and their ingenuity to help on a problem, we have to make sure our Government is backing them up.

We are not doing nearly enough to invest in the new technologies—whether it is clean coal technology or whether it is investing in biofuels, all kinds of alternatives, and renewable sources of energy. Our Government is not doing enough to incentivize the marketplace to come up with a solution long term so we do not face this problem in the future.

Before I conclude, I want to address a couple of arguments. One of the arguments we hear time and again is about drilling. Over and over we hear about drilling from some people here in Washington, some people here in this body. I do not think many people believe the basic argument that we can drill our way to energy independence. No one believes that. But the argument is made over and over again. I think in the interests of putting facts on the table, we ought to put a few on the table right now. Here are some facts important in this debate about ''we can just drill our way out and all our problems will go away with lower gas prices.''

Fact No. 1, the percent of America's recoverable oil reserves already open for drilling—79 percent.

Fact No. 2, America has 3 percent of the world's oil reserves. That is not nearly enough to impact world oil prices. We have 3 percent of the reserves, yet we consume 25 percent of the world's oil. There is no way, no matter what we do on drilling, that we can drill our way out of this.

Fact No. 3, oil companies already have access to 45.5 million acres of Federal land to drill for oil and natural gas. They should tell us why they are not drilling in those areas.

Oil companies, fact No. 4, are only drilling on 21 percent of the leases they currently have offshore in Federal waters. Why is that, Mr. Oil Company? Why are you not drilling on more than 21 percent?

The last fact: Oil companies have refused to invest in refining capacity. They have lost 4 percent of refining capacity since 2001. Since 2001—remember those profits I talked about? Since you were making, oil companies, $600 billion in profits since 2001, why did you lose 4 percent of refining capacity? Why are you crying crocodile tears right now that you need more land when you have all those acres?

These are questions the oil companies should answer. These are facts that are not making their way into the debate.

I think we have not a magic wand to propose, but we have short-term relief we can provide and long-term strategies to reduce our dependence on foreign oil; to literally not just commit ourselves to an energy future that is good for our families and for our country but is about national security in the end. Unless we can do that over time, and unless we commit ourselves to these strategies, we are not only going to be dependent on other countries for our oil but we will be less and less safe because of that dependence.

I think it is critically important that we take action instead of blocking legislation, as happened earlier this month on so many of these short- and long-term solutions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Madam President, before I discuss for a moment the Foreign Intelligence Surveillance Act, I applaud my colleague, the distinguished Senator from Pennsylvania, for his remarks. In the year and a half we have served together in this body, he has stood out as a powerful advocate for consumers, particularly Pennsylvania consumers. He has always had a very thoughtful, helpful, and productive approach to the solutions he has put forward and espoused. It is an honor for me to follow him on the Senate floor here.

On the question of the Foreign Intelligence Surveillance Act, I will talk about the immunity question for telecoms at another time. It is not yet clear what amendment will be allowed to be offered. I thought I would talk about two other issues at this point. The first is the process that has got us here. I do wish to pay particular tribute to the chairman of the Senate Select Committee on Intelligence, JAY ROCKEFELLER, for how steadfast he has been in pushing through this process.

We in the Senate have also been done a great service by our colleagues in the House of Representatives, who stood fast against the Bush administration efforts to stampede this legislation through without proper negotiation and without the basic process of back and forth that ordinarily improves legislation. It has made for a better piece of legislation. It also makes for a notable contrast with what happened a year ago, when we first took up this legislation.

I wish to talk for a minute about that because it was a very disappointing episode, I believe, in the Senate's history, and it is one I wish to make sure we chronicle because it should not be repeated.

In order to understand what I am going to say, it will be important to remember the schedule at the time. I have just replicated July of 2007, and the early days of August here. The first time the big sort of stampede push began, for me at least, was when the Director of National Intelligence, Admiral McConnell, met with me on July 11 in the secure confines of the Senate Intelligence Committee to tell me what he wanted. There had been a big FISA bill that had everything but the kitchen sink in it. It was clearly going no place. He realized he would have to focus on what he wanted, and he said three things. These are from my notes of that meeting.

No. 1, we need to compel the telecoms to help us; No. 2, we need to get foreign-to-foreign conversations, not Americans, foreign-to-foreign conversations without having to go to the FISA Court; and No. 3, we need a warrant if we are going to wiretap Americans. We accept that.

So I said to him: That is fine, but you do not have any legislation. We are suspicious of what is going to be in this legislation when it shows up, so the sooner you can get it written and the sooner you can get it to us the better, because the devil is going to be in the details and we need a chance to look it over. That was on July 11.

The draft legislation was circulated on July 27. It was circulated, at least to me, by mail, so I didn't get it on July 27. I got it over the weekend, the following Monday, on July 30. The Friday from Monday delivery stunt is one we have seen before. But what concerned me was that once that legislation was delivered, the Bush administration began to whip up everything they could do to try to panic Americans about what was going on.

On July 28, that Saturday, President Bush gave a radio address, saying:

Our intelligence community warns that under the current statute we are missing a significant amount of foreign intelligence that we should be collecting to protect our country. Congress needs to act immediately to pass this bill so that our national security professionals can close intelligence gaps and provide critical warning time for our country.

He asked us to work together to pass FISA modernization now, before we leave town, and said our national security depends on it. That is what he said here.

The Senate promptly picked up the chorus with one of my colleagues saying we would be deaf during August to discussions of threats being carried on by al-Qaida and others seeking to do us harm if we did not pass the legislation.

Another colleague said:

This is a time when the Director of National Intelligence and the Secretary of the Department of Homeland Security have said it is a high threat month and it is imperative for national security that we adopt this now.

Another one of our colleagues said:

Make no mistake, inaction on our part needlessly subjects every American to increased danger. We need to act.

Those are just several high points of a real campaign to try to drive this issue by public fear.

Well, here is what concerned me. If, when the President spoke on July 28, national security was that vitally affected by the speed of this legislation; if every day that went by we were missing intelligence, because of an intelligence gap, of al-Qaida plots that were being developed then and there to attack us; if that were true also on the 3rd, why wasn't it true back here on July 11 and 12 and 13, 14, 15, and all the way through here when they circulated the draft on July 27?

Here is what they sent us. This. It is 12 pages. That is it. Double spaced. I could write 12 pages of legislation double spaced in 17 hours if our national security depended upon it. It would not take me 17 days. So when it takes them 17 days to write 12 pages of legislation and then deliver it on the Monday before we recess and suddenly there is an explosion of concern about immediate al-Qaida attacks that are being planned that we need to get into, something does not add up. I believe the result was what I call the August stampede, and as a result we passed, bluntly, a very poor piece of legislation, the so-called Protect America Act.

This piece of legislation does a number of very good things to repair some of the damage in the Protect America Act.

The first is protection for Americans when we travel abroad. Americans travel a lot now. They travel on business, they travel on vacation. It is a lot more expensive now given the Bush administration's oil prices, but people still travel a lot. The rule had been, under the Protect America Act, that if you were traveling abroad, you had no statutory or judicial protection of your privacy, none whatsoever. They could listen to your telephone calls, they could take your BlackBerrys, e-mails, anything—it was open season. There were no statutory or judicial protections for Americans once they set foot outside of the country. The only protection was an executive order, 12333, which said that if the Attorney General determined that you as an American were an agent of a foreign power, then they could listen, then they could surveil, then they could intercept, but only if the Attorney General made that determination. So there was a protection, but it was only an executive order—nothing statutory, nothing judicial. Then we looked into the opinions that underlie the Bush warrantless wiretapping program, and here is what I found.

The flaw in the Protect America Act is that it contained no statutory, no judicial protections for Americans once they were traveling abroad and put them at the mercy of the executive branch of Government to be wiretapped at will, protected only by an Executive order. Our discovery, in the course of looking at the classified legal opinions that supported the warrantless wiretapping program, we discovered this rule that had been inserted by the Office of Legal Counsel:

An executive order cannot limit a President. There is no constitutional requirement for a President to issue a new executive order whenever he wishes to depart from the terms of a previous executive order. Rather than violate an executive order, the President has instead modified or waived it.

Well, as a theory, I think that is, frankly, deeply flawed legally.

In my examination of Attorney General nominee Mukasey, I asked him what the force of an Executive order was. He answered me saying:

Should an executive order apply to the President and he determines that the order be modified, the appropriate course would be for him to issue a new order, or amend the prior order.

I think that is not only the correct but the obvious solution. But we were left in a situation in which an American traveling abroad, without statutory protection, without judicial protection, and with the only protection from the executive being a protection that the President cannot be limited by and that he can ignore at will—frankly, that was no protection at all.

So we worked very hard in the committee—and it has persisted through the entire lengthy process we have been involved in—to make sure that an American, whether you are in the United States or traveling abroad, has the protection of a judicial order before your Government can wiretap you. And that has been achieved. That has been an important achievement.

A second achievement has been in the area of minimization. I know the Presiding Officer was a prosecutor in Minnesota. I have run wiretap investigations as a U.S. attorney, I have run wiretap investigations as an attorney general, and I have seen firsthand how important minimization is to a wiretap investigation.

Minimization is what happens when you have the authority to wiretap somebody, but because you have the authority to wiretap one person, they could be talking to somebody else who is not part of the criminal or national security activity involved, and if that proves to be the case, you have to minimize that to protect the rights of the third person they are talking to. In the old days, the FBI agents would literally sit there with their earmuffs on listening and flip the switch on and off to see whether the conversation was still an innocent conversation or related to some criminal matter.

Now it is more complex, but those minimization procedures did not previously have any judicial oversight. They only were required to be filed. Under this bill, the Attorney General shall adopt minimization procedures. It is mandatory. But more than that, the Foreign Intelligence Surveillance Court is given authority to review those minimization procedures; specifically, to determine whether those procedures meet the statutory standards we require for minimization procedures. So that is particularly important.

Finally, this statute for the first time recognizes ''the inherent authority of the FISA Court to determine or enforce compliance with an order or a rule of such court.'' So they not only get the minimization procedures, they get to approve the minimization procedures. If it is determined that the executive branch isn't following them, they can check for compliance, and they can enforce the procedure. That is a substantial, additional improvement that brings this in line with the traditions of wiretap surveillance within the United States.

Another significant improvement has been in the area of exclusivity. FISA has always said that ''it shall be the exclusive means by which electronic surveillance . . . and the interception of domestic wire, oral, and electric communications may be conducted.''

That was clearly the intent of Congress, as courts, including in the

Andonian decision, have agreed. However, we have a problem again with the Office of Legal Counsel. The Office of Legal Counsel said this:

Unless made a clear statement in the Foreign Intelligence Surveillance Act that it sought to restrict presidential authority to conduct wireless searches in the national security area—which it has not—then the statute must be construed to avoid a reading.

I don't know how you get ''which it has not'' out of the clear language of the Foreign Intelligence Surveillance Act saying this is the exclusive means. But once we found out that in these classified opinions the Office of Legal counsel had suggested this language right here either didn't exist or didn't mean anything, it had to be solved. Thanks to the leadership of Senator FEINSTEIN, in particular, there has been great energy put into improving the exclusivity provision. I think it is now an exclusivity provision that would defeat this type of, frankly, improbable legal analysis and clearly define that it is Congress's intent in the FISA statute to take every possible avenue it can to limit executive surveillance activities to those that are performed within the statutory authority of this particular legislation.

The last thing is reverse targeting. There has been considerable concern about allowing the Government to identify a foreigner who is in touch with Americans regularly and target that foreigner with the reverse targeting purpose to actually pick up the conversations of the American and dodge the requirement for a warrant for judicial review vis-a-vis the American. There are strong provisions in here that require that regulations and procedures be developed to prevent that.

I hope to be able to discuss the statute further, as we get to the discussion about immunity. But I will conclude by summarizing that the process we went through to get to this piece of legislation, particularly article I of this bill, was a very proud moment for this Senate and for this caucus, for Chairman ROCKEFELLER. It has been infinitely better than the degraded process we went through last August in the atmosphere of stampede. I think the quality of the underlying legislation shows it. I hope as we continue to work together in the Senate on other issues, we continue to follow the process that took place with respect to this iteration of the FISA bill, and we never go back to the kind of hectic, imprudent stampede we were put through last August. Second, the elements of article I are improved. This is, in article I, a bill we can we very proud of. We will have our dispute about the immunity provisions. I will have my thoughts on that for later. But there is much that has been accomplished and great credit is due particularly to Chairman ROCKEFELLER for those accomplishments.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF WILLIAM T. LAWRENCE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA

NOMINATION OF G. MURRAY SNOW TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

Mr. REID. Madam President, under the authority of the June 24 order issued by the Chair, I now ask that the Senate proceed to executive session to consider Calendar Nos. 627 and 628.

The PRESIDING OFFICER. The clerk will report the nominations.

The legislative clerk read the nominations of William T. Lawrence, of Indiana, to be United States District Judge for the Southern District of Indiana; and G. Murray Snow, of Arizona, to be United States District Judge for the District of Arizona.

Mr. REID. Madam President, all Senators should be aware that this vote will occur very quickly and the second vote will occur immediately after the first one is completed. We appreciate everyone's cooperation. We are still working through some issues, and we will have some news for the rest of the Senators by the time, hopefully, the first vote is announced.

Mr. LEAHY. Will the Senator yield?

Mr. REID. Yes.

Mr. LEAHY. Madam President, I advise the distinguished leader, I will speak on these judges and judicial matters probably for 10 to 15 minutes at most, and then I would be prepared to go to a rollcall vote on William Lawrence, which would be the first one. I intend to support both nominees.

Mr. REID. Madam President, let me say to the distinguished chairman of the Judiciary Committee, we are glad we are at the point where we are today. There has been cooperation. We have approved two circuit court judges. This will be the third district court judge. It is my understanding there was a markup that went ahead today without any problem and a couple more judges were reported out at that time.

Mr. LEAHY. I advise the leader, four judges were reported out this morning, as well as a U.S. attorney and another one of President Bush's nominees.

Mr. REID. I appreciate the continued good work of my friend, the distinguished Senator from Vermont.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Madam President, the distinguished leader has put the Senate in executive session to consider two more judicial nominations. I would like to speak on these in my capacity both as a Senator from Vermont and as chairman of the Judiciary Committee. We are going to be confirming these two nominations which are, of course, for lifetime appointments to the federal bench, as the distinguished Presiding Officer, an attorney in her own right and with a distinguished background as a prosecutor in Minnesota prior to being here, knows. The two are William Lawrence, nominated to a vacancy in the Southern District of Indiana, and Murray Snow, nominated to a vacancy in the District of Arizona.

I have been delighted to work with my friend of 30 years, Senator LUGAR of Indiana. He strongly supports the recommendation of Judge Lawrence. He came to see me about Judge Lawrence prior to his nomination coming up here. Senator BAYH of Indiana also came to see me and supports the nomination. I have been pleased to accommodate Senator KYL in scheduling first Committee action and now Senate action on the nomination of Judge Snow. Both nominations are being expedited for confirmation in a Presidential election year.

As we approach the Fourth of July recess and celebrate the independence of our great Nation, we will be confirming our fourth and fifth judicial nominations of the week.

But when I go back home to Vermont, as I did this past weekend, and as I will this week, I find that Vermonters—and I suspect this is so with all Americans—are not really concerned about judicial nominations. I have not had anybody come up to me—when I am coming out of church or walking through the grocery store or gassing up my car—and say: We need more judicial nominations.

But what they are concerned about are gas prices that have skyrocketed so high they don't know how they are going to be able to afford to drive to work. I have talked to parents of children in rural parts of our State where there is no mass transportation—never will be. They have to bring their children to school. Both the mother and father are working. They then have to drive to work. These are not high-paying jobs. They then have to drive back and get their children. One couple might have to take care of elderly parents, and they are wondering how they can afford to do it with these gas prices. They are far more concerned about that than they are with lifetime appointments to our Federal bench.

They are concerned also about the steepest decline in home values in two