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## Senate

(Legislative day of Wednesday, February 6, 2008)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable SHERROD BROWN, a Senator from the State of Ohio.

### PRAYER

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

Let us pray.

Eternal Father, who desires us to become lights in a dark world, thank You for illuminating our lives with Your presence. Give to our Senators sufficient grace to overcome all that would obscure Your glorious brightness. Infuse them with humility and wisdom that they will possess clarity of mind, purity of heart, and singleness of devotion to Your purposes. Break down the walls that divide and confuse them and lead them to common ground.

As a caring community, we reach out to Senator and Mrs. Cornyn and ask that You give them Your comfort as they grieve the death of Sandy's Mother, Virginia. Give them and their loved ones Your peace.

We pray in Your merciful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 8, 2008.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHERROD BROWN, a Senator from the State of Ohio, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following my remarks today, the Senate will be back on the Foreign Intelligence Surveillance Act. Under an order previously entered, all amendments must be debated with all time used today or Monday. There will be no rollcall votes today or Monday.

I wish to tell everyone there is a lot of time left on the FISA legislation—8 hours or so, according to how you add it up; some say 6. People are going to have to do it today or Monday or the time will be gone and we are going to complete voting on this on Tuesday. It could be a long Tuesday.

We will finish this work period with some other things we have to accomplish. Next week, we have a number of things we are going to try to accomplish and then we are out a week and then we are back for 3 weeks and then we are out for a couple weeks. And then we are here for 8 weeks. There is a lot to do both here and at home. I hope we have a productive day on Monday.

### RESERVATION OF LEADER TIME

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

### FISA AMENDMENTS ACT OF 2007

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

The legislative clerk read as follows:

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

Pending:

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

Whitehouse amendment No. 3920 (to amendment No. 3911), to provide procedures for compliance reviews.

Feingold amendment No. 3979 (to amendment No. 3911), to provide safeguards for communications involving persons inside the United States.

Feingold-Dodd amendment No. 3912 (to amendment No. 3911), to modify the requirements for certifications made prior to the initiation of certain acquisitions.

Dodd amendment No. 3907 (to amendment No. 3911), to strike the provisions providing immunity from civil liability to electronic communication service providers for certain assistance provided to the Government.

Bond-Rockefeller modified amendment No. 3938 (to amendment No. 3911), to include prohibitions on the international proliferation of weapons of mass destruction in the Foreign Intelligence Surveillance Act of 1978.

Feinstein amendment No. 3910 (to amendment No. 3911), to provide a statement of the exclusive means by which electronic surveillance and interception of certain communications may be conducted.

Feinstein amendment No. 3919 (to amendment No. 3911), to provide for the review of certifications by the Foreign Intelligence Surveillance Court.

Specter-Whitehouse amendment No. 3927 (to amendment No. 3911), to provide for the substitution of the United States in certain civil actions.

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



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Mr. REID. Mr. President, if people wish to come to speak today, they should alert the staff. We are not going to have the staff wait around all day for somebody who might not come. We have had a busy week. Staffs work very long hours. Senators—if they are going to come and talk—had better alert the staff or we are going to go out of session.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, we are back on the floor beginning the third week of debate on the very important Foreign Intelligence Surveillance Act, also known as FISA. We have had a great deal of good debate. We have had a few votes.

Thanks to our leadership—Senator REID and Senator MCCONNELL—we now have a plan to conclude debate and go to the critically important votes on Tuesday. I thank all Members for participating. I know there are some who have comments they wish to make today and Monday. Chairman ROCKEFELLER and I have spent 2½ weeks so far on the floor, and we understand the importance of moving quickly to get this measure adopted—gain approval from the House on a measure we can send to the President for his signature. I truly hope we can make that.

I express my thanks to Chairman ROCKEFELLER, his assistant Melvin Dubee, all members of the committee, Louis Tucker of my staff, and others for bringing us to this position.

It is important to realize the magnitude of the danger we continue to face from radical Islamic terrorists. Probably no place was it better outlined than in testimony in open hearing by the leaders of the intelligence community. Director McConnell, head of the intelligence community, outlined the major areas of concern, backed up by CIA Director Michael Hayden; Defense Intelligence Agency Director General Maples; FBI Director Mueller, and Under Secretary of State Randy Fort for the INR.

A couple things that came out may have been missed by Members who were not fortunate enough to hear the testimony of Admiral McConnell and the intelligence community. I thought I would repeat a few of them for you. First, Admiral McConnell made it clear that even though our intelligence analysts had the availability of collection, which indicated there had been a halt in 2003 to the weaponization program for nuclear weapons in Iran, the threat that Iran poses remains great. Admiral McConnell pointed out that there is no question Iran continues to try to enrich uranium, which can be used for

nuclear weapon production. He also indicated they have the skills and the facilities to turn out biological and chemical weapons, and they are working on a missile program. The halt in 2003 came, not surprisingly, after the United States went in and opposed the dangerous dictator, Saddam Hussein.

It was the capture of Saddam Hussein that led Muammar Qadhafi, leader of Libya, to decide he didn't want to be pulled out of a spider hole by American forces. He gave up his nuclear weaponization program. Personally, I think it is no accident that the same activity in Iraq convinced Iran that, for the time being, it was better to shut down their weaponization program. The top French Defense Minister indicated he was not sure they had not restarted their weaponization program. In any event, we need to continue to be concerned about Iran and its potential threat not just to our allies in the Middle East, particularly Israel, which Iran's elected leader, Ahmadinejad, vowed to annihilate.

Specifically, regarding threats to the United States, General Hayden outlined for us in open hearing—and more specifically in classified information—the number of threats that have been avoided, the plots that have been deterred by our resolute action. And what helped us deter the threats was, first, the active, aggressive move by the U.S. military to disrupt the Taliban and take Afghanistan out from under the control of the Taliban.

Afghanistan was a great threat and much planning was going on by al-Qaida there. There are some on the news who continue to say Iraq had nothing to do with the war on terror. For those others who have looked at the information, that is an unbelievably naive point of view. David Kay, who went into Iraq to conduct a survey of our inadequate intelligence information, said that Iraq was a far more dangerous place even than we knew. Terrorists were running wild there, Abu Mus'ab al-Zarqawi, head of Ansar al-Islam was active there, and later became the AQI, leader of al-Qaida there. Al-Zarqawi became famous when he beheaded victims who didn't agree with him; he cut their heads off on television. Iraq has been designated time and time again by leaders of al-Qaida, Osama bin Laden and Ayman al-Zawahiri, as the target for their headquarters. They want to establish the land between the rivers—the Tigris and Euphrates—as their caliphate. They stated that is their objective.

Were we to leave Iraq precipitously, not only would it lead to chaos, genocide, and possible Mideast sectarian wars, but also it would ensure that al-Qaida would have the opportunity to reestablish their headquarters with recruitment, training, and command and control that would significantly increase the threats to the United States.

This is why it is essential to continue our military support in the war against

terror and also provide the intelligence tools to the intelligence community needed to keep our country safe.

I thought it might be helpful to repeat a few comments that were made at that hearing. Director McConnell, along with FBI Director Mueller, outlined terrorist threats here at home—most recently, in New Jersey, Illinois, and abroad in Spain, Denmark, France, Germany, and the United Kingdom. Admiral McConnell also said:

Al-Qaida remains the preeminent terror threat against the United States, both at home and abroad. Despite our successes over the years, the group has retained or regenerated key elements of its capability, including its top leadership, operation lieutenants, and de facto safe haven . . . in the Pakistani border area with Afghanistan known as the Federally Administered Tribal Areas or FATA.

To expand on that further, I will explain that people who think we are not doing enough to capture Osama bin Laden and al-Zawahiri, I cannot tell you how it is happening, but it is happening in collaboration with our allies. But we have regularly captured or killed the operational head of al-Qaida, the No. 3 man. Most recently, Abu Laith al-Libby, the operational head, was killed in some kind of bomb or missile strike. At the time, of course, he had a U.S. citizen with him, apparently, Adam Gadahn, who had been cooperating actively with the al-Qaida leadership. Now, it is a fact that Gadahn was a top terrorist target. But do you know something. Without having a FISA Court order, we were able to go in and kill him—inadvertently, of course, but we would not have been, without the FISA law—particularly as we have updated it—able to listen in on his conversations. That is the one great shortcoming we learned in Iraq when we met with the head of our Joint Special Operations Command, GEN Stan McCrystal. He said the greatest threat to our troops on the battlefield was not being able to listen in on their electronic communications and see what directions they were giving to the terrorist groups threatening our troops in Iraq. That is why the outmoded, old FISA law we changed with the Protect America Act had to be revised.

In addition to the terrorist threat, there is no question that rogue nations around the world continue to seek dangerous weapons that threaten America's security. Admiral McConnell also said:

The ongoing efforts of nation-states and terrorists to develop and acquire dangerous weapons, and the ability to deliver those weapons, constitute the second major threat to our safety. After conducting missile tests and its first nuclear detonation in 2006, North Korea returned to the negotiating table last year.

We see that North Korea has signed on to the six-party agreement, supposedly getting themselves out of the nuclear business, but some of us have grave doubts whether he will follow through. We need good information on

not only the intentions of terrorist groups, such as al-Qaida, but potentially on nations with nuclear weapons that have developed missiles and the ability and the potential of delivering by missiles the nuclear weapons against U.S. targets.

I close on the discussion of the threats by quoting from General Hayden, the Director of CIA, who said:

We face an enemy that is clearly ruthless, but it's also one that's very adaptive, one who shuns traditional hierarchical structures, who learns from mistakes and therefore demands that we be no less resilient and creative.

Suffice it to say that all of the members of the Intelligence Committee said we must have the FISA bill Senator ROCKEFELLER and I negotiated and passed out of the Senate Intelligence Committee 13 to 2 on a strong bipartisan vote. That is what we are here to pass, I hope, this coming week and send to the President by the end of the week.

Admiral McConnell said:

The authorities granted by the amendments to FISA, the Protect America Act, which temporarily closed some gaps in our ability to conduct foreign intelligence, are critical to our intelligence efforts to protect the nation from current threats. Briefly, some of those important benefits in the bill that was signed last August include: better understanding of international al Qaeda networks, more extensive knowledge of individual networks, including personnel and planning for suicide bombers; and most importantly, greater insight into terrorist planning that has allowed us to disrupt attacks that intended to target U.S. interests.

He also put in a very strong pitch for the Rockefeller-Bond bipartisan bill to extend the FISA through the FISA Amendments Act of 2008. He thanked us and all the members of the committee for the leadership and hard work, and he said:

... and I would emphasize "over many months"—in drafting and passing draft legislation that governs and enables this community. Your bill—draft bill provides the needed updates to the Foreign Intelligence Surveillance Act.

He also went on to warn against dismantling that bill. He said:

Over the past several weeks, proposals to modify your draft bill have been discussed. At the request of members, the attorney general and I have submitted a detail letter that addresses each of those issues, and it will be delivered to you this morning. I would ask members to consider the impacts of such proposals on our ability to warn of threats to the homeland security and on our interests abroad.

We have received that letter. We have quoted from that letter and will continue to quote from that letter on amendments which have been proposed that the intelligence community believes would hamstring their efforts.

As a sidenote, we were able, working on a bipartisan basis, to provide significant new protections for Americans at home and Americans abroad who might be engaged in terrorist activities and are working for foreign powers as agents or officers or employees. These

threats from American citizens are sometimes as deadly, as dangerous as threats from terrorists abroad. We need to be able to listen in on them.

Finally, speaking about the civil liability protection for carriers which we included, he said:

Well, I would say, in protecting the homeland it's absolutely essential. In this—it's absolutely essential that we have the support, willing support of communications carriers. In this day and age, our ability to gain intelligence on the plans, the plots of those who wish to attack us is dependent upon us obtaining information relating to cell phones, the Internet, e-mail, wire transfers, all of these areas. My concern is that if we do not have this immunity, we will not have that willing support of the communications carriers.

That quote was from Robert Mueller, Director of the Federal Bureau of Investigation, at a hearing.

General Hayden went on to say:

These are very fragile relationships. We lost industrial cooperation, at CIA, with partners on the mere revelation of the SWIFT program in public discourse. Not because they were doing anything related to the program whatsoever but just the fear that the vulnerability they would have to their smooth functioning of their business had caused people, who are otherwise patriotic and committed, to back away from their totally lawful cooperation with our agency.

One other point. When there is talk about substituting the United States as a party in litigation brought against carriers alleged to have participated, we ought to take into account some very compelling comments made yesterday by the distinguished deputy majority leader, Senator DURBIN of Illinois. He pointed out that the release of a supposedly confidential letter from the Department of Justice to the Treasury about the operation of one of the major exchanges in Chicago had caused a \$6 billion drop in the market value of that exchange. That means that people holding stock, many of them through pension funds or individual accounts, lost a large share of money.

As I pointed out yesterday, having the substitution of the Government for carriers, while it may remove them from the possibility of financial liability in a lawsuit, does not prevent significant damage to their business relationships here and abroad. The hit on any carriers sued under a substitution agreement, even though it is supposed to be reviewed in classified session by the CIA—everybody around here knows that if carriers are brought before the FISA Court, somebody will be talking about it, it will become news. They will suffer great harm to their business interests and potentially expose their employees and facilities here and abroad to violent attacks by terrorists or other radicals who wish to do them harm. As a result, those carriers that have cooperated in the past or considered cooperating in the past are going to be advised by their general counsels that they cannot do so willingly because they would be subjecting their employees and their shareholders to

great loss. I think this is unacceptable. This is why I believe we have a good FISA Amendments Act before us, and we need to pass it.

We look forward to the debates today and Monday and voting on the amendments and, I hope, passing the bill on Tuesday so the House will have an opportunity to act. It is critical to the defense not only of our interests abroad but for the protection of American citizens at home that, with the protections we have added in the bill that came out of the Senate Intelligence Committee, we also have the ability of the intelligence community to collect vitally needed intelligence information.

We have learned that tremendously valuable information has been collected by high-valued detainees, less than 100 of them that the CIA has captured. Less than a third of that 100 have been subjected to enhanced interrogation techniques. Three of them, as General Hayden outlined, were weatherboarded, and they provided in a cooperative spirit the most important information. Beyond that, electronic surveillance is the best weapon we have to defend ourselves, to defend major population centers, tourist attractions, sporting events, and outdoor events from a terrorist attack. I hope all Members will keep that in mind as they consider the amendments which will be brought before this body on Tuesday for a final vote.

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

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

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. 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.

#### HONORING THE 98TH ANNIVERSARY OF THE BOY SCOUTS OF AMERICA

Mr. McCONNELL. Today marks the 98th anniversary of the founding of the Boy Scouts of America. William D. Boyce incorporated the Boy Scouts of America, or BSA, on February 8, 1910. Boy Scouting had already been established in Great Britain a few years earlier by the father of Scouting, General Robert Baden-Powell, when the American William Boyce paid a visit to that country. Legend has it that the Chicago publisher found himself lost on a foggy London street. A Boy Scout came to his aid and led him to his destination. When Boyce offered the boy a tip, he refused, saying as a Scout, it was his duty to do a good turn.

Mr. Boyce was so impressed with the character of this young Scout, who remains unknown today, that he was inspired to learn all he could about the British organization and create something like it in America.

Congress granted BSA a charter in 1916. Today, nearly 3 million boys and over 1 million adult leaders participate in Boy Scouting. It is one of our country's most vital institutions to teach character, leadership and civic responsibility to our children. BSA membership since 1910 totals more than 111 million.

With programs including Tiger Cubs, Cub Scouting, Webelos, Varsity Scouting and Venturing, boys from as young as 7 to as old as 20 have the opportunity to participate in Boy Scouting.

With parents often serving as adult leaders, Boy Scouting is actually a family activity. Boys who are successful in Scouting often grow up to be successful in life. My colleagues in this Chamber can attest to that. We have 35 former Boy Scouts in the Senate of the 110th Congress, and 147 in the House of Representatives.

This Senate has 10 Members who have earned Scouting's highest distinction, the rank of Eagle Scout. Every Boy Scout learns in his first meeting the Scout law, which states:

A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean and reverent.

Our country is stronger because millions of boys have learned those words. They are the values of Scouting, and they are the values of America.

#### HONORING OUR ARMED FORCES

Mr. MCCONNELL. Mr. President, I rise to speak about a soldier who gave his life in the performance of his duty. On October 17, 2006, SSG Garth D. Sizemore of Mount Sterling, KY, was on patrol in Baghdad when he was targeted by a terrorist sniper attack that tragically took his life. He was 31 years old.

Staff Sergeant Sizemore had permission to take some rest and relaxation at the base that day, but he bravely volunteered to go on patrol. After a first tour of duty in the strife-ridden area of Fallujah, Iraq, this was his second tour of duty in that desert country.

For his bravery in uniform, Staff Sergeant Sizemore received numerous medals and awards, including the Noncommissioned Officer Professional Development Ribbon, the Bronze Star Medal, and the Purple Heart.

A fellow soldier once asked Staff Sergeant Sizemore how he felt about serving his second tour in Iraq. Staff Sergeant Sizemore replied, "Hey man, I'd rather be at home with my wife, and giving my cat a hard time, but if fighting the enemy here in Iraq keeps the enemy from fighting me in my own country, then this is where I belong."

Staff Sergeant Sizemore had served in the U.S. Army since 1999, and both his mother, Carolyn Sizemore, and his father, Glenn Sizemore, are veterans.

Carolyn and Glenn raised a boisterous boy who loved spending time outdoors, whether camping, kayaking, or rappelling. He participated in Future Farmers of America. He enjoyed rock music and learned how to play the

guitar. "He liked being active," says Garth's father, Glenn.

Glenn recalls the time he and a 16-year-old Garth went to a cousin's farm to practice pistol shooting. On the way there, Garth told his dad that he had dreamed the night before that, while shooting his gun, a bullet got stuck in the end of it. That very day, while target shooting, the same thing happened to Garth's pistol.

Glenn never forgot Garth's prophetic dream, and attributed it to his Native American heritage on his mother's side. An avid gun collector, Garth accumulated many rifles and pistols that he had gathered over the years.

Garth attended Montgomery County High School and later received his GED. He attended Morehead State University for a while, and then chose to enlist in the U.S. Army as a career. Starting out with the mechanized infantry in Fort Hood, TX, Garth quickly advanced.

"I loved working with Staff Sergeant Sizemore because he took his job very seriously and made sure everyone else took their job seriously as well," says SSG Raja Richardson.

"When young soldiers arrived to the unit, Staff Sergeant Sizemore would always remind us by saying, 'These young privates don't know nothing but what we teach them.'"

Staff Sergeant Sizemore took the responsibility of training the men under his command very seriously. But that didn't mean his naturally engaging personality did not shine through.

Staff Sergeant Sizemore "possessed a perfect balance of a work-play attitude, which was exactly what the young soldiers of his squad needed in training and in combat," CPT Michael Baka, his commanding officer. "He cared deeply for each and every member of his platoon, soldiers, peers and leaders alike."

Staff Sergeant Sizemore served with the 1st Battalion, 26th Infantry Regiment, 2nd Brigade Combat Team, 1st Infantry Division, based out of Schweinfurt, Germany. While stationed in Germany, Garth met Elena, who became his bride.

Sadly, Elena and Garth were married only 18 months before his passing.

My prayers are with Staff Sergeant Sizemore's loved ones today, including his wife Elena; his mother Carolyn; his father Glenn; his grandmother Alliene Sizemore; his grandmother Dora Caldwell; and many other beloved family members and friends.

Garth's unit, the 2nd Brigade Combat Team, 1st Infantry Division, was known as "The Dagger Brigade," they had endured some of the roughest battles in Iraq. Yet Garth never flinched from his duty.

The Sizemore family held Garth's funeral service in Greenup County, KY. Today, his wife Elena has embraced both the State and the Nation her husband called home by enrolling at the University of Kentucky and making plans to complete an ROTC program and join the U.S. Army.

This U.S. Senate expresses its deepest gratitude to SSG Garth D. Sizemore for his service and sacrifice. Our Nation owes his loving family, who still grieve for his loss, a debt that cannot be repaid.

#### SERGEANT ROBERT W. EHNEY

Mr. President, I rise to speak today about a son of Kentucky who was lost to us in the desert sands of Iraq. On April 23, 2006, SGT Robert W. Ehney of Lexington, KY, perished from injuries sustained when an improvised explosive device set by terrorists went off under his Humvee in the Iraqi town of Taji. He was 26 years old.

Sergeant Ehney was serving as the gunner in that Humvee. It was his second tour of duty in Iraq; he had served in the U.S. Army for 3 years. For bravery in time of service, Sergeant Ehney received numerous medals and awards, including the Noncommissioned Officer Professional Development Ribbon, the Bronze Star Medal, and the Purple Heart.

"I am very proud of the man he became," says Mary Beth Ehney, Rob's mother. "He was proud of being a good soldier, he was a good father, he was a good son, a good brother."

Rob's father, William Ehney, worked for Federal Express, and so the Ehney family moved around quite a bit when Rob was young. Rob attended school in Centennial, CO, among other places.

Rob took up target shooting as a boy, and continued to enjoy it into adulthood. He played baseball, golf and soccer, rode motorcycles and was good with computers. Rob loved to listen to music, and before he was deployed his family gave him an iPod to take with him as a gift.

Most of all Rob loved playing with his young son Will, who is now 6 years old.

Rob received his GED and then enlisted in the Army in 2003. He entered boot camp at age 23, a few years older than most of the other recruits, who were 18 or 19. Soon his fellow soldiers gave him the affectionate nickname "Pops."

The nickname didn't just refer to Rob's advanced years—Rob took on the responsibility of looking after his fellow soldiers. Both his mother and dad describe Rob as a caring person who saw his leadership skills blossom in the Army.

"He told my wife and I that he was concerned about the young guys," says his father, William.

"He wanted to be all macho on the outside but a marshmallow on the inside," Rob's mother, Mary Beth, adds. "He was just a kind person."

Marshmallow or not, Rob had the bravery befitting a soldier. Once when he called his mother from a deployment, Mary Beth could hear "ping, ping, ping" sounds over the phone. "Oh, that's just snipers shooting at us," Rob told his mother when she inquired about the noise.

"Do you want to call me back at a better time?" Mary Beth asked. "No," her son replied. "They can't hit anything anyway."

After Rob's death, William and Mary Beth received a letter from 1LT James E. Harris IV, Rob's platoon leader in Iraq, telling them just how much their son strengthened the entire unit.

"He was a rock in this storm we face daily over here," First Lieutenant Harris wrote. "It was apparent that many of the younger soldiers found calm looking up to 'their sergeant' after he lifted their spirits and encouraged them to drive on."

"More often than not I would walk away [after talking with Rob], ribs hurting from laughing so much," First Lieutenant Harris adds. "He was the morale of this platoon."

Rob had a fiancée, Amanda Applegate, and they planned to marry after he left active service. Both Rob and Amanda fell in love with Jessamine County, KY, just south of Lexington, and wanted to make their home there. Rob hoped to become a Jessamine County police officer.

Rob's family held his funeral service in Lexington. The minister for the service was the same man who had baptized him, and he told the story of how the 6-foot-3 Rob had had to double over in the tank to be baptized, and his knees never got wet.

Mr. President, Rob's loved ones have my deepest sympathies on their tragic loss. We are thinking today of his son Will, his mother Mary Beth, his father William, his sister Casey, his maternal grandmother Bobbi Holst, his maternal grandfather Nicholas Reams, his fiancée Amanda Applegate, and many other family members and friends. Rob was predeceased by his paternal grandparents, Mr. and Mrs. William Ehney, Sr.

Sergeant Ehney's devotion to his duty and his fellow soldiers cannot be denied. First Lieutenant Harris expressed this best in his letter to Rob's parents. This is what he had to say:

"Even though [Rob] did not pass away with his genetic family by his side, please know that his brothers were all by his side telling him they loved him and that they would carry on for him."

Referencing Shakespeare's "Henry V," First Lieutenant Harris continued, "[Rob] believed in the quote, 'We few, we happy few, we band of brothers . . . for he who sheds his blood with me today shall be my brother, and I his.'"

No words can make up for the loss that Rob's family, fellow soldiers, and dear friends have suffered. But I hope the knowledge that Rob loved those who were closest to him—his "band of brothers"—and that they loved him in return provides some relief and comfort.

This United States Senate bows to SGT Robert W. Ehney's devotion and sacrifice. And we offer our deepest gratitude to him and his family for all they have given our Nation.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

#### FLORIDA AND MICHIGAN DEMOCRATIC DELEGATES

Mr. NELSON of Florida. Mr. President, I have two subjects I wish to discuss for the Senate. The first is, with the dramatic events shifting as we select the nominees for President from our two great parties, we potentially have a significant train wreck that may start occurring in the Democratic Party as a result of a divisive issue of seating the Michigan and Florida delegations to the National Convention because the Florida legislature, a legislature that is controlled by the Republican Party, passed a bill that moved the Florida primary earlier than the date allowed by the Democratic National Committee. In fact, it moved it, instead of the deadline of February 5, 1 week earlier to January 29. The Democratic National Committee then stripped all of Florida's delegates to the National Convention.

Mind you, the bill that was passed was an election reform bill. While it was being deliberated in the State legislature of Florida, in fact, the Democratic leader of the State senate offered an amendment to take out January 29 and instead put it back to February 5, which would have complied with the Democratic National Committee's request and rules. That amendment by the Democratic leader of the State senate was defeated. The bill then went on to pass because it was an election reform bill having to do with the functioning of election machines in Florida, something about which we are quite sensitive in our State as a result of our electoral history.

As a result, the Democratic National Committee took great umbrage at this and instead of their rules providing that they would take away half of Florida's delegates to the National Convention, they took away all of Florida's delegates and, in fact, the first four privileged States that were allowed to have primaries or caucuses prior to February 5—namely, Iowa, New Hampshire, Nevada, and South Carolina—extracted a pledge from all the Democratic candidates for President that said they would not campaign in the State of Florida. They honored that pledge.

The election was held pursuant to State law, a law passed by the legislature and signed into law by a Governor

who happens to be Republican. Because of that, Florida is being penalized by the national committee by not having any delegates.

In the meantime, the State of Michigan, under a Democratic legislature, signed into law by a Democratic Governor, moved their primary up to January 15. They had their primary January 15. Likewise, the Democratic National Committee took away their delegates to the National Convention. But the difference was that only a couple of the Presidential candidates' names were on the ballot because of a Michigan law that allows the candidates to withdraw their names from the ballot when, in fact, the Florida law does not allow that. The Florida election, on January 29, had all of the candidates on the ballot.

Here is the coming train wreck: If one of our two leading candidates does not get a majority by the time all the primaries and the caucuses are over, with the last one being the South Dakota primary on June 3, if that does not decide who is the winner of the Presidential sweepstakes of being the Democratic nominee, then we go into a period during June, July, and all the way to the end of August at the Democratic National Convention, a period of enormous uncertainty and turmoil—first of all, the turmoil of whether the superdelegates, who are generally the members of the DNC, the congressional delegations, both House and Senate, and the Governors, who are all unpledged as for whom they would vote, so they would be getting in their back rooms and deciding, and the turmoil of what to do with Florida and Michigan's delegations.

Why is this important? It is certainly important to this Senator, the senior Senator from Florida, because in fact, not only did Florida voters turn out on January 29 for the primary, they turned out in record numbers. About 1.8 million Florida Republicans turned out, and the Republican National Committee was penalizing Florida Republicans, not by taking away all of the delegates to the National Convention but by only taking away half. Over 1.7 million Florida Democrats turned out to vote, and they expressed their will.

The turmoil is what to do about the seating of the Michigan and Florida delegations. Just recently, the chairman of the Democratic National Committee, an esteemed, very distinguished former Governor of Vermont, Governor Dean, our chairman of the party, as reported in the New York Post a couple of days ago, was proffering maybe having a new caucus in Michigan and Florida as a way of selecting the delegates to the National Convention from those two States. But, Mr. President, you cannot undo an election with a caucus, and especially you cannot undo an election where 1.7 million Florida Democrats have gone to vote in a secret ballot and replace it with a caucus that maybe 50,000 people would show up. It is a basic underpinning of our democracy, and it is a basic

underpinning of a constitutional right to vote and to have that vote counted.

So what do we do? I am certainly amenable for anyone who has a suggestion to get us out of the potential train wreck because the potential train wreck could well be that if the Florida and Michigan delegations are not seated at the National Convention in August, those are two key States that only 2 months thereafter would be voting on who is going to be the next President of the United States.

So with this speech, I am making a plea to all of our colleagues in the Senate and beyond to try to find an accommodation in which the right to vote and to have that vote counted can be respected, especially in the State of Florida where all of the candidates' names were on the ballot.

That is the first issue about which I wanted to talk.

#### INTERNATIONAL SPACE STATION

The second issue about which I want to talk, and I want to put on my hat as the chairman of the Space Subcommittee of the Senate Commerce Committee, is the importance of the International Space Station of which the space shuttle launched yesterday successfully. And it was a magnificent launch. They are now closing in on orbit onto the International Space Station. They are taking up a European module that will be an important component of this International Space Station. This International Space Station is two football fields long—this thing is huge—about 325 miles up, orbiting the Earth at 17,500 miles per hour.

The International Space Station was created as a multibillion-dollar facility to do research internationally. One of the major experiments for which NASA has yet to find space on the space shuttle to fly and be attached to the space station is the alpha magnetic spectrometer. This is an international consortium of some 20 countries and 50 universities around the world. It is being built as we speak. It is almost completed. It is being built in Geneva, Switzerland. It is looked upon as a scientific experiment that possibly several Nobel prizes will come as a result.

But we have to get it up there, Mr. President. And the NASA Administrator, Dr. Michael Griffin, is saying: No, we don't have space on the space shuttle. This alpha magnetic spectrometer was designed to fly in the cargo bay of the space shuttle. It takes up about 25 percent of the cargo bay of one space shuttle flight. The Administrator, in detailed testimony in front of our committee, with this Senator questioning him, said he doesn't have space. He said he had a couple of contingency flights, after all the other flights are allocated.

Remember, the Administrator of NASA says his plan is to shut down the space shuttle in September of 2010—and oh, by the way, we don't have a rocket ready that can start flying thereafter. The latest estimate is there would be a 5-year gap, until 2015, in order to fly an

American rocket with humans—called Aries—with a capsule called Orion.

Well, what do we do in the meantime? NASA is planning that we are going to pay for Russian Soyuz vehicles. Well, what is the geopolitics going to be in the year 2011, 2012, 2013, 2014, and 2015, before we will have a human-capable rocket to get to the international space station? We are going to pay for Russian vehicles? In other words, we are going to lay off NASA employees and contractors in order to buy Russian vehicles in a geopolitical setting, and we don't even know what our relationship with Russia is going to be in the year 2011. If it isn't particularly good, what is the cost of that, or what is the ability of them to say: Nyet, we are not going to sell you a ride on a Russian Soyuz vehicle. Now, that is the danger.

So NASA is going to complete the construction of the space station. It has two contingency flights. I said: Well, why are they contingent?

I asked that of Dr. Griffin, the Administrator of NASA, and he said: Well, they have additional equipment for the space station, and they have extra spare parts we want to put up.

So I said: Well, then, you mean they are not contingent.

He says: Yes, I guess you are right, they are not contingent. But he says: We don't have space to fly the alpha magnetic spectrometer.

What does this experiment do that all of these universities and all of these nations are so interested in getting it up there so they can go to work? What it does is it identifies the origin of cosmic rays, and that means it can help us understand the origin of the universe. This is not just an American experiment, this is an international experiment of countries around the world. This is a part of us wanting to understand our beginnings. This is a part of our nature, as a people, to want to explore the heavens and understand the universe.

This is an essential part of our space program, but the NASA Administrator says he doesn't have space to fly it on the space shuttle and he is going to shut down the space shuttle in September or October of 2010. He said: You will have to put it over onto an expendable rocket, and that won't be for another 5 years. And instead of it being 25 percent of the cargo bay of a space shuttle, for an additional cost of about \$100 million, he is putting it over here on an expendable rocket, 5 years later, that is going to cost between \$500 million and \$800 million. Now, that is not a good tradeoff.

So how do we get it onto the space shuttle before they shut down the space shuttle? There are three flights where this could be done. STS-129, which is set to go in August of 2009, has two express logistics carriers. In fact, you could reconfigure that flight or another flight in July of 2010. You could reconfigure those two flights by taking some of the payloads on those express

logistics carriers and creating space of 25 percent of the cargo bay and put on this critical experiment—the alpha magnetic spectrometer; or in the flight that is to go on February 2010, STS-131, you could take the integrated cargo carrier vertical light deployable and a docking cargo module, you could take that flight and you could reconfigure that integrated cargo carrier vertical light deployable and create space for the alpha magnetic spectrometer. That would allow the space shuttle to launch 8,800 pounds of these orbital replacement units, plus the ICCVLD to the international space station on the same flight as this critical experiment—the alpha magnetic spectrometer.

Now, why am I saying this? Because these are the specialists at the centers of NASA around the country who are saying this can be done. The Administrator tells our committee it can't be done, but it can. So I am making a plea. And it is not just this Senator because seated right by me is Senator KAY BAILEY HUTCHISON of Texas, during that hearing late last year, making the plea as well. In a bipartisan way, we made the plea to NASA to reconfigure those last several flights to find room for the AMS because if you don't, Dr. Griffin, if you don't, NASA, you are going to kill this experiment that has enormous support in the international scientific community, all of which is the very reason for having an international space station up there in the first place—to do scientific research.

I hope all of the management of NASA will do a recomputing. My tremendous congratulations to them. And Dr. Griffin knows I have been a supporter of his as he has turned around NASA, as he has taken very difficult times after the destruction of the last space shuttle *Columbia*, and he has brought back NASA with a professionalism that is the hallmark of NASA. The launch yesterday was another example of that professionalism, with that space shuttle closing in, as I speak, on the international space station to rendezvous, to dock, to deliver that European module, and to continue to equip that international space station to do what it was designed to do—scientific research.

Let's complete that task before the space shuttle is shut down by finding space on the manifest to fly the AMT—the alpha magnetic spectrometer.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The junior Senator from Alabama is recognized.

#### RUSSIANS HELP BUILD REACTOR

Mr. SESSIONS. Mr. President, it is great to be with my colleague, Senator NELSON. His great knowledge of space and military defense issues is very valuable to this country. He chairs the Subcommittee on Strategic Forces in the Armed Services Committee, in addition to his NASA work on the Commerce, Science and Transportation Committee. I value his leadership and



expertise, and I am going to share some thoughts that dovetail nicely with one of the points he was making about U.S. reliance on Russia as a legitimate partner.

We desired and hoped as a nation that the fall of the Soviet Union would usher in a new period of cooperation with Russia. We hoped they would be a legitimate partner with us in improving both of our nations, and the world. We have the capability to create a partnership that can foster progress, prosperity, and peace in the world. But the reality is that a lot of things are happening to cause us great concern. We as a nation are going to have to face up to the fact that the Russians are not reliable. They may not be reliable as a partner in space; they certainly are not reliable in helping to contain the proliferation of nuclear weapons.

So we have some big issues facing us, and I thank the Senator from Florida for at least raising that point about space.

Let me quote from yesterday's New York Times, an article by Matthew Wald entitled: "U.S.-Backed Russian Institutes Help Iran Build Reactor." The headline alone is hard to believe.

This article begins:

The Energy Department is subsidizing two Russian nuclear institutes that are building important parts of a reactor in Iran whose construction the United States spent years trying to stop, according to a House committee.

The article goes on:

The institutes, both in Nizhny Novgorod, gave American officials copies of sales presentations that listed the Bushehr reactor, which Russia has agreed to fuel, as one of their projects. One institute is providing control systems, including control room equipment, and the other hundreds of pumps and ventilation fans. The Energy Department is subsidizing the institutes under the Initiatives for Proliferation Prevention, a program set up in 1994 after the collapse of the Soviet Union. The program was intended to prevent newly impoverished scientists and their institutions from selling expertise to States or terrorist groups that want nuclear weapons.

A good goal, for sure.

The article goes on:

The United States supplements the salaries of scientists and pays overhead at those institutes, according to the House Oversight and Investigation Subcommittee. It was not immediately clear whether the Energy Department was contributing to the salaries of the very scientists involved in the Bushehr reactor project. Two Michigan Democrats—Representatives John D. Dingell, chairman of the House Committee on Energy and Commerce, and Bart Stupak, chairman of the Committee's Oversight and Investigations Subcommittee—asked that question in a letter sent on Wednesday to the Energy Secretary Samuel Bodman.

The article quotes their letter saying this:

What policy logic justifies the Department of Energy funding Russian institutes which are providing nuclear technology to Iran?

Pretty good question. It goes on to ask this additional question:

How does this advance our nonproliferation goals?

So I salute our House colleagues, Democratic Chairman DINGELL and Congressman STUPAK for asking these questions. The U.S. is going to have to grow up and acknowledge some things are happening within Russia that are not positive. We wish it were not so. We wish we could be in better shape with Russia today, and it is most discouraging and troubling that we are not.

I had the opportunity to visit the Nizhny Novgorod region in the early 1990s before I was a Senator. We spent about 2 weeks there living with some wonderful Russian people. It was an exceedingly informative and wonderful trip and I value the relationships we built at that time.

But the Government of Russia is on a dangerous track now, I am afraid. We might as well begin to talk about it. Congressmen DINGELL and STUPAK's letter notes that in October 2007, the National Intelligence Estimate on Iran concluded:

Iranian entities are continuing to develop a range of technical capabilities that could be applied to producing nuclear weapons if a decision is made to do so.

If we will remember, the National Intelligence Estimate was written by a committee headed by State Department persons, not professional intelligence officers, who concluded that the Iranians were not attempting to build a nuclear bomb. But in that report they did note that Tehran is pushing forward aggressively with creating a nuclear reactor to generate electricity, despite the fact that Iran sits on an untold wealth of natural gas and oil. Also, the report buried the fact that learning how to enrich fuel for use in nuclear reactors is by far the most important step in building a nuclear bomb. If you can handle that problem, it takes you very little time to create a nuclear weapon.

Mr. DINGELL and Mr. STUPAK go on to quote Secretary of State Condoleezza Rice in 2006 saying:

The United States faces no greater challenge from a single country than from Iran.

So the Congressmen say this in their letter to Secretary of Energy Bodman:

Given these dire warnings, it is troubling that the Department of Energy would subsidize or otherwise support Russian entities providing technology and services to the Iranian nuclear program.

I would agree. This is not the first time this issue has been discussed. In December 21 of last year, Henry Sokolski, executive director of the Nonproliferation Policy Education Center, wrote in the Weekly Standard online that:

Perhaps the only thing more disappointing than Moscow's shipment this week of lightly enriched uranium to fuel the power reactor in Bushehr in Iran was Bush's endorsement of it.

Mr. Sokolski quoted President Bush as saying:

If the Russians are willing to do that, [supply the uranium,] which I support, then the Iranians do not need to learn how to enrich.

So this apparently is a continuation of a State Department tendency to excuse problems with Iran and Russia. And the President apparently was making a comment consistent with that view. The article goes on to state:

Technically, this will only bring Tehran closer to getting a bomb. If the fuel is diverted and used as fresh feed for Iran's uranium enrichment centrifuges at Natanz it could dramatically reduce the time and effort needed to make a bomb's worth of weapons-grade highly enriched uranium.

Russia shipped 82 tons of lightly enriched uranium. At any time while it is loading the fuel, Tehran can seize it and have enough uranium to feed its centrifuges at Natanz to make up to 150 crude nuclear weapons.

Former Under Secretary of State, John Bolton, repeatedly detailed his concern over Russo-Iranian cooperation in testimony and speeches. Now that he has left the Department, it looks as though people have decided to sweep the matter under the rug.

For an illustration of how dramatically our policy as shifted since Mr. Bolton's departure, listen to this statement from a State Department press briefing in January 2003:

"We believe that President Putin shares our deep concern at the prospect of a nuclear-armed Iran. We have made clear to Russia that any further nuclear cooperation with Iran, including construction of additional power reactors, will assist directly or indirectly Iran's ambitious request for nuclear weapons."

So back in 2003, we were more alert to the danger posed by the Bushehr project, and we were stating the unvarnished facts about it. This kind of activity could only assist, directly or indirectly, Iran's ambitious quest for nuclear weapons.

The State Department spokesman went on to say:

We underscored to Russia that an end to Russia's nuclear assistance to Iran would allow the United States and Russia to reap the full promise of our new strategic relationship, benefitting Russia economically and strategically far more than any short-term gain from construction of additional reactors or other sensitive transfers to Iran.

And then he went on to suggest and state:

If the Russians end their sensitive cooperation with Iran, we have indicated we would be prepared to favorably consider such transfers of spent fuel back to Russia—

That now cannot be done legally without our accord—

an arrangement worth potentially several billion U.S. dollars in revenue to Moscow.

So we had a carrot and a stick there. It looks as if it was not a very good offer because the Russians did not accept it. They completed their work at Bushehr.

Now, with regard to the question of the National Intelligence Estimate on Iran, I believe that it created the very damaging false impression that the Iranians had no interest in going forward with creating a nuclear weapon. That was the headline that the press drew

out of it. The Estimate, I believe, was written and designed to create that headline. And the people who wrote it should be held to account for the misapprehension they have created.

The NIE was done by a team under Director of National Intelligence, Admiral Michael McConnell, and I guess he did review it, as did General Michael Hayden at CIA. But neither one of them personally signed it as an absolute position of the DNI or the CIA. Admiral McConnell testified about this report at a Senate Select Committee on Intelligence hearing the day before yesterday. He said this:

If I had 'til now to think about it, I probably would change a few things.

He later added:

I would change the way we describe the Iranian nuclear program. I would have included that there are the component parts, that the portion of it, maybe the least significant, had halted.

The portion of their nuclear weapons program that was halted was the portion which the intelligence community deemed least important; the most important part is still ongoing. I say that to say we are not in some academic exercise here. We are dealing with a rogue state, Iran, that has been determined to obtain nuclear weapons and has been working on it for years. The Iranians are receiving assistance from the Russians who, in turn, are receiving support and cooperation from us.

We are going to have to talk about this a good bit more as time goes by. But a lot of things are happening that are very troubling. As I said, I wish it were not so. For example, the Iranians tested a satellite launch vehicle earlier this week. On February 4, the Jerusalem Post reported that a successful satellite launch by the Iranians would lead to "a dramatic improvement in their missile capability." Ahmadinejad was present at the launch site and gave orders to launch the rocket himself.

This is what he said:

Our presence in space is a necessity. Any country that respects itself should control the most advanced technology.

Does that include nuclear weapons?

We are grateful to God for witnessing the first and determined step toward an Iranian satellite.

The Iranians are spending a lot of their money on satellites and weapons systems and even nuclear weapons. That is a fact. So we are going to have to reevaluate our relationship with Russia in light of their ongoing assistance to Iran. That is a fact. I wish that things were different. They are not.

It is worth noting that there has been a string of belligerent and unwise actions by the Russians recently.

For example, in January of 2006, they cut off natural gas supplies to the Ukraine, a deliberate act to try to pressure the Ukraine's—their former satellite.

In May of 2007, Russian cyber-attacks shut down the Internet throughout Estonia, a former Russian satellite, now independent. Estonia has no desire

whatsoever to be back as a part of the Soviet Union.

In August of 2007, Russian jet fighters invaded the airspace of the Republic of Georgia and dropped a missile on Georgian territory. Georgia is a free nation with elections and a highly intelligent leadership team, many of whom were educated in the United States. They absolutely have no desire to fall under the sway of the Russians again.

But this is the way that Putin behaves. Russia has supported the Georgian separatist movement. They have actively supported anti-Western opposition in Ukraine and Kyrgyzstan. They are ramping up their military spending dramatically when there is no perceived increase in the threat to Russia. What serious argument can be suggested that Russia is under military threat? From the EU? We cannot even get the EU to pull the trigger in Afghanistan.

Some of them will not even carry guns. They are not threatening Russia.

In the summer of 2007, Russia started bomber flights outside its territory encroaching on the airspace of the United Kingdom, Norway, and Guam. In September of 2007, Russia loudly announced the test of a superstrength conventional bomb. In October of 2007, Putin announced a "grandiose plan" to restore Russia's Armed Forces and develop new nuclear weapons. While we are dramatically reducing the number of nuclear weapons in our country, they are developing brand new weapons and testing missiles to evade U.S. missile defenses.

What about their relationship with Iran? Putin visited Iran in October and pledged enhanced Russian-Iranian cooperation, including on nuclear energy. Russia resumed work on the Bushehr reactor and provided Iran with enriched uranium to fuel it. Moscow also conducted major arms sales with Iran, China, Syria, and Venezuela, including fighter aircraft and anti-aircraft missiles. With the Chinese, Russia has used the threat of a veto to water down and block meaningful U.N. action on Iran's illicit nuclear program.

One of the oddest Russian behaviors is their decision to trump up an issue over our perfectly legitimate and reasonable decision to build a missile defense system in Poland and the Czech Republic. Putin says that our decision to go forward with this project is a tremendous threat to Russia, but there will only be ten defensive missiles stationed there. The interceptors are not designed in any way to defeat a Russian attack, which would involve hundreds of nuclear weapons. But, no, they are trumping up a dispute between the United States and Europe and Russia over this. Some say it is for domestic political consumption to help Putin consolidate his power. Whatever the reason, it is not healthy. This Nation has to wake up and be able to understand that Russia, fueled by all this new oil money and an increasingly autocratic regime under Mr. Putin, is

not a healthy partner. We have to ask some real questions. Are they going to be a legitimate partner for a better world?

This article in yesterday's New York Times was very troubling to me and represents another example of confused thinking that may exist within the bowels of our Government regarding our relationship with Russia and with Iran. We have to be realistic and honest and accept the fact that things are not going well, that in many ways Russian activity grows darker and darker and less and less positive. They continue to expand their relationships with rogue states and bad actors, and frustrate the legitimate actions of the developing world to create a more prosperous economy and more peaceful world. We will probably talk about this more as time goes by. We might as well start right now, questioning how reliable Russia is as a partner.

Should we be participating in space programs with the Russians? Frankly, it has cost us more than we have gained from their assistance, experts say. So this partnership has mainly been a good way for the Russians to gain insight into our technologies, but it has not been an advantage to our space program. If we don't watch it, we will be dependent on them in a way that can keep us from following through on our goals for space.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

WATERBOARDING

Mr. SESSIONS. Madam President, I would like to take a moment to try to clarify an issue that has caused a lot of concern for years now. It has now come to a conclusion, and I am glad it has. I am glad to learn waterboarding has not been used but three times by our country and has not been used in almost 5 years. From the reports and statements made by Members of Congress and extreme groups around the world, one would think we have had a systematic effort to waterboard people and otherwise torture and abuse them. Only one prisoner has died since they have been in U.S. custody since the beginning of the war on terror. We treat them very well. I have been to Guantanamo Bay on more than one occasion. I have seen how interviews are conducted. So have large numbers of our body.

As I indicated in earlier remarks, we wish the world were safer than it is. Unfortunately, it is not as safe as we would like. Those of us sitting comfortably at home forget the real threats out there. We tend to forget there are determined groups who want



to attack the United States as they did on 9/11 and kill our people. This is an unpleasant task. When confronted on the battlefield, in Iraq, in Afghanistan, we shoot them and we kill them and we drop bombs on them and we kill them because these are life-and-death matters that Congress has authorized. I wish that were not necessary. I know it is a failure of us in some form or fashion. But as a practical person, we know no other alternative than to defend ourselves. We are required to do that.

I was reading an article from the Mr. R. Emmett Tyrrell, Jr., in the Washington Times today. He talks about what Admiral McConnell, the Director of National Intelligence, said a few days ago in hearings. Director McConnell said:

The number of terrorist attacks and deaths were greater than in the past six years combined.

He was talking about the battle for Pakistan and its survival.

The article states:

Another [statement] from Mr. MCCONNELL . . . is that al Qaeda plans more attacks against the United States and was working on a plan for attacking the White House as recently as 2006. Homegrown al Qaeda cells here have been primitive, but Mr. MCCONNELL registered his concern that new, more sophisticated cells might threaten us domestically in the years ahead.

And that is a fair summary, I think, of Admiral McConnell's comments.

Since we have now openly talked about the waterboarding question, and Members of Congress and the public have now gotten the information, I think we need to make sure we know exactly how those three occurrences developed.

The first thing we know is it worked. I hate to say, it worked. No. 2, the Agency—only the CIA used waterboarding; never the U.S. military, never the Department of Defense; not in Iraq, not in Afghanistan—it was never utilized by our military, but the Central Intelligence Agency on three occasions since September 11.

As the article says, they utilized it only on those:

[T]error leaders who have posed the utmost threat to our [national] security, Abd al-Rahim al-Nashiri, [who was the] mastermind of [the] attack on our warship the USS *Cole* in a neutral port.

We had hearings in the Armed Services Committee, of which I am a member, about that dastardly attack. And I remember about a year after the *Cole* was attacked—where we had 18 American sailors killed by this vicious attack; and it could have been a lot more—the Navy commissioned a ship down at Norfolk, VA; and as we walked out of the ceremony, a young sailor hollered out—and it still makes my hair stand up—"Remember the *Cole*."

Well, we got the perpetrator, and justice was done.

Abu Zubaydah, [who was] the brains behind the thwarted millennium attacks—

That we were able to block—

and Khalid Sheikh Mohammed, who directed September 11. . . .

The attacks on September 11. KSM, that is his name now for the professionals, Khalid Sheikh Mohammed.

So I believe the Attorney General of the United States, after researching this matter carefully, and after our intelligence agencies gave it thoughtful review, concluded we do not need to have waterboarding now, that these three instances were justified.

Attorney General Mukasey, a former Federal judge—approved overwhelmingly by the Senate—was asked to make an opinion on waterboarding. He said he believed those actions were justified under those circumstances, and he would not say we would never ever do it again in the future. He said circumstances would determine how you handle those kinds of situations.

Let me note, again, for a lot of people, these are not honest and legitimate soldiers of a nation state. The people who are subjected to this procedure are persons who are unlawful combatants. They are persons who do not fight according to the rules of war, and they do not wear uniforms. They deliberately attack civilian personnel. They do it through subterfuge and violence, and their goals are outside all rules of warfare. Until some recent cases, they were clearly considered not to be provided any protections under the Geneva Conventions.

So I will say, Madam President, we hate to talk about these things. We wish we did not face the kind of threats from the diabolical terrorists that we do. We wish we did not have to go to war and shoot and kill many of them. But we, as a nation—the Congress; both parties—have authorized that activity. We fund that activity. Our soldiers are out there putting their lives on the line at this very moment to execute that policy, placing themselves in harm's way.

I am glad the Attorney General has reviewed it carefully. I am glad he is able to say waterboarding was utilized only three times, that it had not been used in 5 years. But I am glad he also said he would not say it would never be done again. This would be unwise advice to the enemy we face.

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

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

#### CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk pursuant to the order relative to S. 2248.

The PRESIDING OFFICER. The cloture motion having been presented pursuant to rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, do hereby move to bring to a close debate on S. 2248, the FISA bill.

Harry Reid, Charles E. Schumer, Sherrod Brown, Daniel K. Akaka, Jeff Bingaman, Thomas R. Carper, Ken Salazar, Sheldon Whitehouse, John D. Rockefeller IV, Richard Durbin, Bill Nelson, Debbie Stabenow, Robert P. Casey, Jr., E. Benjamin Nelson, Evan Bayh, Daniel K. Inouye.

Mr. REID. Madam President, I ask unanimous consent that notwithstanding rule XXII, the cloture vote occur upon disposition of the remaining amendments pursuant to the previous order and that the mandatory quorum be waived.

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

#### MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

#### ADDITIONAL STATEMENTS

##### ALABAMA BLUE RIBBON SCHOOLS

• Mr. SESSIONS. Madam President, I would like for my colleagues to join me in congratulating Forest Avenue Academic Magnet Elementary School in Montgomery, AL, which has been named a No Child Left Behind Blue Ribbon School of 2007. I recently met with principal Jan Hill and teachers Jennifer Rodopoulos and Gina Thomase from Forest Avenue, and I thoroughly enjoyed the opportunity to talk with them about education and this great achievement. Blue Ribbon Schools are selected because they are showing dramatic achievement gains in working with students from disadvantaged backgrounds or they are in the top 10 percent of their State on State tests. This is a remarkable accomplishment, and I applaud the hard work principal Jan Hill and the many other hard-working faculty and staff have done to receive this high honor. I know that the lives of students at these schools are being changed.

Madam President, I would like for my colleagues to join me in congratulating K.J. Clark School of Mathematics, Science, and Technology in Mobile, AL, which has been named a No Child Left Behind Blue Ribbon School of 2007. Blue Ribbon Schools are selected because they are showing dramatic achievement gains in working with students from disadvantaged backgrounds or they are in the top 10 percent of their State on State tests. This is a remarkable accomplishment, and I applaud the hard work principal Dianne McWain and the many hard-working faculty and staff members have done to receive this high honor. I know that the lives of students at these schools are being changed.