

Air Force nomination of Paul L. Sherouse, to be Colonel.

Air Force nomination of Gabriel C. Avilla, to be Major.

Air Force nominations beginning with Nathan P. Christensen and ending with Sara A. Whittingham, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Air Force nominations beginning with Jessica L. Abbott and ending with Andrew J. Wynn, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Air Force nominations beginning with Edward R. Anderson III and ending with David H. Zonies, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Air Force nominations beginning with Michael J. Alfaro and ending with Sara M. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Air Force nominations beginning with Corey R. Anderson and ending with Son X. Vu, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Army nomination of Michael P. McGaffigan, to be Major.

Army nominations beginning with Edwin E. Ahl and ending with D002419, which nominations were received by the Senate and appeared in the Congressional Record on September 20, 2010.

Army nominations beginning with Diane J. Boese and ending with Philip N. Wasylina, which nominations were received by the Senate and appeared in the Congressional Record on September 29, 2010.

Army nomination of Robert C. Dorman, to be Colonel.

Army nomination of David A. Niemiec, to be Major.

Army nomination of William L. Vanasse, to be Major.

Army nomination of George A. Carpenter, to be Major.

Army nomination of Susan A. Castorina, to be Major.

Army nominations beginning with Theresa C. Cowger and ending with Marie N. Wright, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Paula S. Oliver and ending with Gary D. Riggs, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Joseph C. Carver and ending with Gary L. Paulson, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nomination of John E. Johnson II, to be Major.

Army nomination of Andrew S. Dreier, to be Lieutenant Colonel.

Army nominations beginning with Kevin D. Ellson and ending with Steven J. Olson, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Phillip R. Glick and ending with William G. Suver, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Kevin Acosta and ending with Robert K. Yim, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Mary E. Abrams and ending with D002043, which nominations were received by the Senate and

appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Timothy P. Albers and ending with G001187, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Ellen J. Abbott and ending with Michael W. Young, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with John C. Allred and ending with D001821, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with John W. Aarsen and ending with Loren T. Zweig, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with John G. Feltz and ending with Louis W. Wilham, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nomination of Kathleen M. Flocke, to be Major.

Army nomination of Gary A. Voegindewey, to be Colonel.

Army nominations beginning with Craig S. Brooks and ending with Bennie W. Swink, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Marine Corps nominations beginning with Brandon M. Bolling and ending with Wyeth M. Towle, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Navy nominations beginning with Patrick C. Daniels and ending with Thomas L. Edler, which nominations were received by the Senate and appeared in the Congressional Record on September 29, 2010.

Navy nomination of Matthew R. Fomby, to be Lieutenant Commander.

Navy nomination of Ronny L. Jackson, to be Captain.

Navy nomination of Frederick G. Panico, to be Captain.

Navy nominations beginning with Daniel J. Traub and ending with Wayne M. Burr, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Navy nominations beginning with Auntowhan M. Andrews and ending with Christopher W. Wolff, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Navy nominations beginning with Matthew A. McQueen and ending with Charles E. Varsogea, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Navy nomination of Brian L. Beatty, to be Lieutenant Commander.

Navy nomination of Jon C. Cannon, to be Commander.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CARDIN:

S. 4050. A bill to amend the Classified Information Procedures Act to improve the

protection of classified information and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 1203

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1203, a bill to amend the Internal Revenue Code of 1986 to extend the research credit through 2010 and to increase and make permanent the alternative simplified research credit, and for other purposes.

S. 3363

At the request of Mr. CARDIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3363, a bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act.

S. 3467

At the request of Mr. SCHUMER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3467, a bill to require a Northern Border Counternarcotics Strategy.

S. 3913

At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3913, a bill to amend title 10, United States Code, to enhance the roles and responsibilities of the Chief of the National Guard Bureau.

S. 4001

At the request of Mr. WEBB, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 4001, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Centennial of Marine Corps Aviation, and to support construction of the Marine Corps Heritage Center.

S. RES. 694

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. Res. 694, a resolution condemning the Government of Iran for its state-sponsored persecution of religious minorities in Iran and its continued violation of the International Covenant on Human Rights.

AMENDMENT NO. 4841

At the request of Mr. THUNE, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of amendment No. 4841 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4847

At the request of Mr. BROWN of Massachusetts, his name was added as a cosponsor of amendment No. 4847 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on

Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARDIN:

S. 4050. A bill to amend the Classified Information Procedures Act to improve the protection of classified information and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, the Classified Information Procedures Act, CIPA, was enacted in 1980 with bipartisan support to address the “disclose or dismiss” dilemma that arose in espionage prosecutions when a defendant would threaten the government with the disclosure of classified information if the government did not drop the prosecution. Previously, there were no congressionally mandated procedures that required district courts to make discovery and admissibility rulings regarding classified information in advance.

CIPA has worked reasonably well during the last 30 years, but some issues have arisen in a number of notable terrorism, espionage, and narcotics cases that demonstrate that reforms and improvements could be made to ensure that classified sources, methods, and information can be protected and to ensure that a defendant’s due process and fair trial rights are not violated. In 2009, when the Congress enacted the Military Commissions Act, MCA, the Congress drew heavily from the manner in which the Federal courts interpreted CIPA when it updated the procedures governing the use of classified information in military commission prosecutions. At that time, however, the Congress did not update CIPA. Indeed, since its enactment in 1980, there have been no changes to the key provisions of CIPA.

As chairman of the Senate Judiciary’s Terrorism and Homeland Security Subcommittee, I have chaired a number of hearings during which witnesses have testified about the capacity of our civilian courts to try alleged terrorists and spies. The first subcommittee hearing that I chaired was on July 28, 2009, and was entitled “Prosecuting Terrorists: Civilian and Military Trials for GTMO and Beyond.” The second Terrorism and Homeland Security Subcommittee hearing that I chaired was on May 12, 2010, and was entitled “The Espionage Statutes: A Look Back and A Look Forward.” The testimony I have heard in regard to terrorism, espionage, and our civilian courts has convinced me that while our courts have the capacity and the procedures in place to try alleged terrorists and spies, reforms and improvements could be made to CIPA to codify and clarify the decisions of the Federal courts.

As a result, today I am introducing the CIPA Reform and Improvement

Act, CRIA, of 2010. CRIA contains reforms and improvements to ensure that the statute maintains the proper balance between the protection of classified sources, methods and information, and a defendant’s constitutional rights. Among other things, this legislation, which includes the applicable changes that the Congress made when it enacted the Military Commissions Act of 2009, will codify, clarify, and unify Federal case law interpreting CIPA; ensure that all classified information, not just documents, will be governed by CIPA; ensure that prosecutors and defense attorneys will be able to fully inform trial courts about classified information issues; and will clarify that the civil state secrets privilege does not apply in criminal cases. CRIA will also ensure high-level DOJ approval before the government invokes its classified information privilege in criminal cases and will ensure that the Federal courts will order the disclosure and use of classified information when the disclosure and use meets the applicable legal standards. This legislation will also ensure timely appellate review of lower court CIPA decisions before the commencement of a trial, explicitly permit trial courts to adopt alternative procedures for the admission of classified information in accordance with a defendant’s fair trial and due process rights, and make technical fixes to ensure consistent use of terms throughout the statute.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 4050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) **SHORT TITLE.**—This Act may be cited as the “Classified Information Procedures Reform and Improvement Act of 2010”.

(b) **IN GENERAL.**—Section 1 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) ‘Disclosure’, as used in this Act, includes the release, transmittal, or making available of, or providing access to, classified information to any person (including a defendant or counsel for a defendant) during discovery, or to a participant or member of the public at any proceeding.”.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 501(3) of the Immigration and Nationality Act (8 U.S.C. 1531(3)) is amended by striking “section 1(b)” and inserting “section 1”.

SEC. 2. PRETRIAL CONFERENCE.

Section 2 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by inserting “(a) IN GENERAL.—” before “At any time”; and

(2) by adding at the end the following:

“(b) **EX PARTE.**—If the United States or the defendant certifies that the presence of both parties at a pretrial conference would harm the national security of the United States or

the defendant’s ability to make a defense, then upon request by either party, the court shall hold such pretrial conference ex parte, and shall seal and preserve the record of that ex parte conference in the records of the court for use in the event of an appeal.”.

SEC. 3. PROTECTIVE ORDERS.

Section 3 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Upon motion”; and

(2) by inserting “use or” before “disclosure”; and

(3) by inserting “, or access to,” after “disclosure of”; and

(4) by inserting “, or any classified information derived therefrom, that will be” after “classified information”; and

(5) by inserting “or made available” after “disclosed”; and

(6) by adding at the end the following:

“(b) **NOTICE.**—In the event the defendant is convicted, the United States shall provide the defendant and the appellate court with a written notice setting forth each date that the United States obtained a protective order.”.

SEC. 4. DISCOVERY OF AND ACCESS TO CLASSIFIED INFORMATION BY DEFENDANTS.

Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the section heading, by inserting “AND ACCESS TO” after “DISCOVERY OF”; and

(2) by inserting “(a) IN GENERAL.—” before “The court, upon”; and

(3) in the first sentence—

(A) by inserting “to restrict the defendant’s access to or” before “to delete”; and

(B) by striking “from documents”; and

(C) by striking “classified documents, or” and inserting “classified information,”; and

(D) by striking the period at the end and inserting “, or to provide other relief to the United States.”;

(4) in the second sentence, by striking “alone,” inserting “alone, and may permit ex parte proceedings with the United States to discuss that request.”;

(5) in the third sentence—

(A) by striking “If the court enters an order granting relief following such an ex parte showing, the” and inserting “The”; and

(B) by inserting “, and the transcript of any argument and any summary of the classified information the defendant seeks to obtain discovery of or access to,” after “text of the statement of the United States”; and

(6) by adding at the end the following:

“(b) **ACCESS TO OTHER CLASSIFIED INFORMATION.**—If the defendant seeks access to non-documentary information from a potential witness or other person through deposition under the Federal Rules of Criminal Procedure, or otherwise, which the defendant knows or reasonably believes is classified, the defendant shall notify the attorney for the United States and the court in writing. Such notice shall specify with particularity the nondocumentary information sought by the defendant and the legal basis for such access.

“(c) **SHOWING BY THE UNITED STATES.**—In any prosecution in which the United States seeks to restrict, delete, withhold, or otherwise obtain relief with respect to the defendant’s discovery of or access to any specific classified information, the attorney for the United States shall file with the court a declaration made by the Attorney General invoking the United States classified information privilege, which shall be supported by a declaration made by a knowledgeable United States official possessing the authority to classify information that sets forth the identifiable damage to the national security that