

consider any unfair competitive advantage that an offeror may possess.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5809) to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

At 6:00 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 81) to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1746) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4748) to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counter-narcotics strategy, and for other purposes.

The message also announced that pursuant to section 5605 of the Patient Protection and Affordable Care Act (Public Law 111-148), and the order of the House of January 6, 2009, the Speaker appoints the following members on the part of the House of Representatives to the Commission on Key National Indicators: Dr. Stephen Heintz of New York, New York, and Dr. Marta Tienda of Princeton, New Jersey.

The message further announced that pursuant to section 306(k) of the Health Service Act (42 U.S.C. 242k), and the order of the House of January 6, 2009,

the Speaker appoints the following member on the part of the House of Representatives to the National Committee on Vital and Health Statistics for a term of 4 years: Dr. Vickie M. Mays of Los Angeles, California.

At 7:09 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 3243. An act to require U.S. Customs and Border Patrol to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

S. 3592. An act to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building".

The message also announced that the House has passed the following bill, with an amendment:

S. 2925. An act to establish a grant program to benefit victims of sex trafficking, and for other purposes.

#### ENROLLED BILLS SIGNED

At 7:20 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1746. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counter-narcotics strategy, and for other purposes.

H.R. 6412. An act to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

At 7:49 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

#### ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

#### ENROLLED BILLS SIGNED

At 9:05 p.m., a message from the House of Representatives, delivered by

Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation:

Report to accompany S. 2889, a bill to reauthorize the Surface Transportation Board, and for other purposes (Rept. No. 111-380).

Report to accompany S. 3302, a bill to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, and for other purposes (Rept. No. 111-381).

Report to accompany S. 3566, a bill to authorize certain maritime programs of the Department of Transportation, and for other purposes (Rept. No. 111-382).

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 1633. A bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, and for other purposes.

S. 2982. A bill to combat international violence against women and girls.

S. 3798. A bill to authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum human standards of health, sanitation, and safety, and for other purposes.

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title and with an amended preamble:

S.J. Res. 37. A joint resolution calling upon the President to issue a proclamation recognizing the 35th anniversary of the Helsinki Final Act.

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with an amended preamble:

S. Con. Res. 71. A concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

### 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. 4051. A bill to improve, modernize, and clarify the espionage statutes contained in

chapter 37 of title 18, United States Code, to promote Federal whistleblower protection statutes and regulations, to deter unauthorized disclosures of classified information, and for other purposes; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 3424

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 3914

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 3914, a bill to amend title VIII of the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to complete payments under such title to local educational agencies eligible for such payments within 3 fiscal years.

S.J. RES. 37

At the request of Mr. CARDIN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S.J. Res. 37, a joint resolution calling upon the President to issue a proclamation recognizing the 35th anniversary of the Helsinki Final Act.

S. CON. RES. 71

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

S. RES. 680

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Res. 680, a resolution supporting international tiger conservation efforts and the upcoming Global Tiger Summit in St. Petersburg, Russia.

AMENDMENT NO. 4851

At the request of Mr. SESSIONS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 4851 intended to be 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. 4904

At the request of Mr. CORKER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 4904 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. 4913

At the request of Mr. LIEBERMAN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of amendment No. 4913 intended to be 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. 4051. A bill to improve, modernize, and clarify the espionage statutes contained in chapter 37 of title 18, United States Code, to promote Federal whistleblower protection statutes and regulations, to deter unauthorized disclosures of classified information, and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, the current framework concerning the espionage statutes was designed to address classic spy cases involving persons who intended to aid foreign governments and harm the United States. The current framework traces its roots to the Espionage Act of 1917, which made it a crime to disclose defense information during wartime. The basic idea behind the legislation, which was upheld by the U.S. Supreme Court as constitutional in 1919, was to stop citizens from spying or interfering with military actions during World War I. The current framework was formed at a time when intelligence and national security information existed primarily in some tangible form, such as blueprints, photographs, maps, and other documents.

Our Nation, however, has witnessed dramatic changes to nearly every facet of our lives over the last 100 years, including technological advances which have revolutionized our information gathering abilities as well as the mediums utilized to communicate such information. Yet, the basic terms and structure of the espionage statutes have remained relatively unchanged since their inception. Moreover, issues have arisen in the prosecution and defense of criminal cases when the statutes have been applied to persons who may be disclosing classified information for purposes other than to aid a foreign government or to harm the United States. In addition, the statutes contain some terms which are outdated and do not reflect how information is

classified by the Executive branch today.

Legal scholars and commentators have criticized the current framework, and over the years, some federal courts have as well. In 2006, after reviewing the many developments in the law and changes in society that had taken place since the enactment of the espionage statutes, one district court judge stated that “the time is ripe for Congress” to reexamine them. *United States v. Rosen*, 445 F. Supp. 2d 602, 646 E.D. Va. 2006, Ellis, J. Nearly 20 years earlier in the *Morison* case, one federal appellate judge stated that “[i]f one thing is clear, it is that the Espionage Act statutes as now broadly drawn are unwieldy and imprecise instruments for prosecuting government ‘leakers’ to the press as opposed to government ‘moles’ in the service of other countries.” That judge also stated that “carefully drawn legislation” was a “better long-term resolution” than judicial intervention. See *United States v. Morison*, 844 F.2d 1057, 1086, 4th Cir. 1988.

As Chairman of the Senate Judiciary’s Terrorism and Homeland Security Subcommittee, I chaired a Subcommittee hearing on May 12, 2010, entitled “The Espionage Statutes: A Look Back and A Look Forward.” At that Subcommittee hearing, I questioned a number of witnesses, which included witnesses from academia as well as former officials from the intelligence and law enforcement communities, about how well the espionage statutes have been working. Since that hearing, I have been closely and carefully reviewing these statutes, particularly in the context of recent events. I am now convinced that changes in technology and society, combined with statutory and judicial changes to the law, have rendered some aspects of our espionage laws less effective than they need to be to protect the national security. I also believe that we need to enhance our ability to prosecute spies as well as those who make unauthorized disclosures of classified information if we add to the existing statutes. We don’t need an Official State Secrets Act, and we must be careful not to chill protected First Amendment activities. We do, however, need to do a better job of preventing unauthorized disclosures of classified information that can harm the United States, and at the same time we need to ensure that public debates continue to take place on important national security and foreign policy issues.

As a result, I am introducing the Espionage Statutes Modernization Act, ESMA, of 2010. This legislation makes important improvements to the espionage statutes to make them more effective and relevant in the 21st century. This legislation is narrowly-tailored and balanced, and will enable the government to use a separate criminal statute to prosecute government employees who make unauthorized disclosures of classified information in violation of the nondisclosure agreements