

proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### COAL MINING PERMITTING PROCESS

Mr. McCONNELL. Madam President, I rise to sound an alarm about a threat to coal-mining businesses in Kentucky. Coal is a vital part of my State's economy, and a vital part of America's energy portfolio. The coal industry creates over 60,000 jobs in Kentucky, including approximately 15,000 coal miners. More than half the country's electricity is generated by coal, electricity those workers help generate.

But this important sector of the economy now faces a back-door attempt to restrict coal mining, one that was implemented without a hearing or a vote by this administration's Environmental Protection Agency. The EPA is overstepping its authority by using an approval process meant to assess the environmental impact of mining operations as a means to halt those mining operations altogether.

According to one study by the Senate Environment and Public Works Committee, it could be estimated that roughly 3,500 mining jobs in Kentucky are in jeopardy if the EPA does not let go its stranglehold on the growth of that industry. And mining industry jobs are not the only jobs lost thanks to this wrongheaded, bureaucratic overregulation. For every coal-mining job, 11 other jobs are dependent on it. That means up to 38,500 jobs in my State alone could be affected.

Let me give a concrete example of how what the EPA is doing directly affects jobs. Out of 49 Kentucky applicants for permits under section 404 of the Clean Water Act, only one application—that is right, one—is actually under review. 1 out of 49. Actually, that should be 1 out of 42 because seven applicants were kept waiting so long by the EPA's foot-dragging tactic that they had no choice but to withdraw their applications.

After all, during this whole length of time that the EPA unfairly prolongs the process, mine operators must still spend resources to keep their mines ready to operate. Eventually paying these costs while earning no profit in return forces many of these businesses to just give up.

While the rest of the permits are technically pending a review, in reality they are in limbo and essentially dead as long as the EPA refuses to even begin its official review process. This "run out the clock" tactic is bad news for Kentucky's economy.

I know I don't have to tell my colleagues we are in a recession. Unemployment is higher than any of us would like it to be. In Kentucky it is 10.5 percent, higher than the national average. My highest priority as the Senator from Kentucky is to help ev-

eryone from my State who wants a job to find one.

That is why I must speak out against what the EPA is doing. Their attack on an important Kentucky industry hampers the growth of jobs, and it especially hampers the growth of small businesses—the greatest engines of job creation.

The EPA has turned the section 404 permitting process, already a cumbersome process to begin with, into an illegitimate, backdoor means of shutting down Kentucky coal mines. This is outside the scope of their authority and the law. It represents a fundamental departure from the permitting process as originally envisioned by Congress.

This Senate needs to make it clear to the EPA that they must complete the permit review process in a timely manner, and provide complete transparency along the way to all sides. They cannot continue to impose a backdoor ban on mining operations in Kentucky through an illegitimate process.

Let me add one more thing. The section 404 permit review process is only one aspect of the EPA's war on coal. They are also seeking to impose a backdoor national energy tax by regulating carbon dioxide emissions from coal plants under the Clean Air Act, which will hurt our economy and endanger millions of jobs across the country. The Senate will have an opportunity to vote on the EPA's actions in that regard in the near future.

#### MINIMUM ESSENTIAL COVERAGE

Mr. AKAKA. Madam President, as chairman of the Senate Committee on Veterans' Affairs, concerns have been raised to me about a technical error in the health care reform bill that was recently passed, the Patient Protection and Affordable Care Act, H.R. 3590. In drafting the PPACA, a provision was included which designates health care provided under VA's authority as meeting the minimum required health care coverage that an individual is required to maintain.

However, due to the way this exemption was worded, this definition may exclude children with spina bifida, who are seriously disabled and to whom VA provides reimbursement for comprehensive health care. The underlying bill gave authority to the Secretary of Health and Human Services to designate other care, which could include the VA spina bifida program, as meeting the definition of minimum essential coverage. This bill would simply clarify what was originally intended.

Chapter 18 of title 38 contains the Spina Bifida Health Care Program, which is a health benefit program administered by the Department of Veterans Affairs to provide reimbursement for comprehensive health care for children with spina bifida who are born to veterans of the Vietnam War and to some veterans who served in Korea during specified times, as well as chil-

dren of women Vietnam veterans with certain birth defects. The program provides reimbursement for medical services and supplies.

My legislation corrects this small error. Additionally, this legislation would clarify that recipients of CHAMPVA would also be considered as meeting the requirement for minimum essential coverage. This legislation is currently supported by 59 cosponsors, including my friend from North Carolina, and the ranking member on my Committee, Senator BURR. Additionally, the Veterans of Foreign Wars, Disabled American Veterans, and the Military Officers Association of America have endorsed this bill.

Thank you, Madam President and I thank my colleagues for their support in making this small but important clarification for veterans.

#### HONORING OUR ARMED FORCES

CHIEF SPECIAL WARFARE OPERATOR ADAM LEE BROWN

Mrs. LINCOLN. Madam President, today I honor Chief Special Warfare Operator Adam Lee Brown, 36, a Navy SEAL from Hot Springs who died in Afghanistan March 18. My heart goes out to the family of Chief Special Warfare Operator Brown, who made the ultimate sacrifice on behalf of our Nation. According to those who knew him best, he was a caring, compassionate individual, who always put others ahead of himself. He was in his eighth tour of duty in Afghanistan and is survived by his wife, two young children, and his parents.

Along with all Arkansans, I am grateful for the service and sacrifice of all of our military service members and their families. More than 11,000 Arkansans on Active Duty and more than 10,000 Arkansas Reservists have served in Iraq or Afghanistan since September 11, 2001.

It is the responsibility of our Nation to provide the tools necessary to care for our country's returning service members and honor the commitment our Nation made when we sent them into harm's way. Our grateful Nation will not forget them when their military service is complete. It is the least we can do for those whom we owe so much.

CALIFORNIA CASUALTIES FROM IRAQ AND AFGHANISTAN

Mrs. BOXER. Madam President, I rise today to pay tribute to 14 servicemembers from California or based in California who have died while serving our country in Operation Enduring Freedom since December 16, 2009. This brings to 147 the number of servicemembers either from California or based in California who have been killed while serving our country in Afghanistan. This represents 14 percent of all U.S. deaths in Afghanistan.

PFC Serge Kropov, 21, of Hawley, PA, died December 20, 2009, as a result of a nonhostile incident in Helmand province, Afghanistan. Private First Class

Kropov was assigned to Marine Aircraft Group 16, 3rd Marine Aircraft Wing, I Marine Expeditionary Force, Marine Corps Air Station Miramar, CA.

LCpl Omar G. Roebuck, 23, of Moreno Valley, CA, died December 22, 2009, as a result of a nonhostile incident in Helmand province, Afghanistan. Lance Corporal Roebuck was assigned to 2nd Combat Engineer Battalion, 2nd Marine Division, II Marine Expeditionary Force, Camp Lejeune, NC.

SSG David H. Gutierrez, 35, of San Francisco, CA, died December 25, 2009, at Kandahar Air Field, Afghanistan, of wounds suffered when insurgents attacked his dismounted patrol with an improvised explosive device in Howz-e Madad. Staff Sergeant Gutierrez was assigned to the 2nd Battalion, 1st Infantry Regiment, 5th Brigade, 2nd Infantry Division, Fort Lewis, WA.

SSG Anton R. Phillips, 31, of Inglewood, CA, died December 31, 2009, at Forward Operating Base Methar Lam, Afghanistan. Staff Sergeant Phillips was assigned to G Forward Support Company, 77th Field Artillery Regiment, 2nd Battalion, Task Force Wildhorse, Forward Operating Base Methar Lam, Afghanistan.

LCpl Jeremy M. Kane, 22, of Towson, MD, died January 23, 2010, while supporting combat operations in Helmand province, Afghanistan. Lance Corporal Kane was assigned to 4th Light Armored Reconnaissance Battalion, 4th Marine Division, Marine Forces Reserve, based out of Camp Pendleton, CA.

SGT David J. Smith, 25, of Frederick, MD, died January 26, 2010, from wounds received January 23 while supporting combat operations in Helmand Province, Afghanistan. Sergeant Smith was assigned to 4th Light Armored Reconnaissance Battalion, 4th Marine Division, Marine Forces Reserve, based out of Camp Pendleton, CA.

SSG Mark A. Stets, 39, of El Cajon, CA, died February 3, 2010, in Timagara, Pakistan, from wounds suffered when insurgents attacked his unit with an improvised explosive device. Staff Sergeant Stets was assigned to the 8th Psychological Operations Battalion, Airborne, 4th Psychological Operations Group, Airborne, Fort Bragg, NC.

LCpl Alejandro J. Yazzie, 23, of Rock Point, AZ, died February 16, 2010, while supporting combat operations in Helmand province, Afghanistan. Lance Corporal Yazzie was assigned to 1st Combat Engineer Battalion, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, CA.

PFC Charles A. Williams, 29, of Fair Oaks, CA, died February 7, 2010, at Camp Nathan Smith, Afghanistan, of injuries sustained while supporting combat operations. Private First Class Williams was assigned to the 97th Military Police Battalion, 18th Military Police Brigade, Fort Riley, KA.

LCpl Joshua H. Birchfield, 24, of Westville, IN, died February 19, 2010, while supporting combat operations in Farah province, Afghanistan. Lance

Corporal Birchfield was assigned to 3rd Battalion, 4th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, CA.

SSG Michael David P. Cardenaz, 29, of Corona, CA, died February 20, 2010, in Kunar, Afghanistan, when enemy forces attacked his unit with rocket-propelled grenades. Staff Sergeant Cardenaz was assigned to the 2nd Battalion, 12th Infantry Regiment, 4th Brigade Combat Team, 4th Infantry Division, Fort Carson, CO.

SPC Ian T.D. Gelig, 25, of Stevenson Ranch, CA, died March 1, 2010, in Kandahar, Afghanistan, of wounds suffered when enemy forces attacked his vehicle with an improvised explosive device. Specialist Gelig was assigned to the 782nd Brigade Support Battalion, 4th Brigade Combat Team, 82nd Airborne Division, Fort Bragg, NC.

LCpl Carlos A. Aragon, 19, of Orem, UT, died March 1, 2010, while supporting combat operations in Helmand province, Afghanistan. Lance Corporal Aragon was assigned to 4th Light Armored Reconnaissance Battalion, 4th Marine Division, Marine Forces Reserve, based out of Camp Pendleton, CA.

LCpl Nigel K. Olsen, 21, of Orem, UT, died March 4, 2010, while supporting combat operations in Helmand province, Afghanistan. Lance Corporal Olsen was assigned to the 4th Light Armored Reconnaissance Battalion, 4th Marine Division, Marine Forces Reserve, based out of Camp Pendleton, CA.

I would also like to pay tribute to a young American who was killed serving our country in Iraq during this same time period. This brings to 883 the number of servicemembers either from California or based in California who have been killed while serving our country in Iraq. This represents 20 percent of all U.S. deaths in Iraq.

PFC Scott G. Barnett, 24, of Concord, CA, died January 28 in Tallil, Iraq, of injuries sustained while supporting combat operations. Private First Class Barnett was assigned to the 412th Aviation Support Battalion, 12th Combat Aviation Brigade, Katterbach, Germany.

#### EXPIRING DOMESTIC SURVEILLANCE PROVISIONS

Mr. WYDEN. Madam President, the U.S. Senate recently approved a 1-year extension of the expiring provisions of the Patriot Act with a voice vote. The extension was subsequently approved by the House and signed into law by President Obama. As I have argued for years that the Patriot Act is in need of serious reform, I would like to outline the changes I will keep working for as a member of the Senate Select Committee on Intelligence.

Many of my colleagues who agree with me that reforms are needed think it would be difficult to have a constructive debate on domestic surveillance in the Senate right now. They think that

next year will be a better time to have this debate, and that waiting will lead to a better opportunity to restore the best possible balance between fighting terrorism ferociously and protecting American rights and freedoms.

Personally, I think that the reforms I am outlining today should have been made years ago. But based on the debate on the Patriot Act that took place in the Senate Judiciary Committee last fall, I agree that those of us who believe in reform need to spend more time making our case to our colleagues and the American people. So I will briefly address those reforms that I think are necessary, and the ways that I would like to see this debate move forward between now and next February, when these provisions will come up for renewal again.

The three expiring provisions all involve domestic surveillance in one way or another. One regards the use of roving wiretaps for intelligence purposes, one regards the surveillance of so-called “lone wolf” terrorist suspects, and one involves government access to business records. I have cosponsored legislation that would create additional safeguards on the use of roving wiretaps, and I think that it is appropriate to debate whether the “lone wolf” statute should be reformed or repealed, particularly given the fact that it has never been used. But it is the business records provision, section 215 of the Patriot Act, which I believe is most in need of reform.

Section 215 of the Patriot Act is referred to as the “business records” provision, but it actually covers any personal information that is held by any sort of institution or third party—including banks, hospitals, libraries, and retail stores of all types. And it doesn’t just apply to documents; it applies to “any tangible thing”, which means it covers things like blood or tissue samples as well.

Prior to 9/11, if the FBI or another government agency was conducting an intelligence investigation and wanted to obtain an individual’s personal records from the business or institution that was holding them, the government agency had to have evidence indicating that the person whose records they wanted was a terrorist or a spy. Section 215 of the Patriot Act lowered this standard to permit the government to collect any records deemed “relevant to an investigation”.

“Relevant” is an incredibly broad standard. In fact, it could potentially permit the government to collect the personal information of large numbers of law-abiding Americans who have no connection to terrorism whatsoever.

As an alternative to “relevance”, I and other senators have advocated for what I call the “nexus to terrorism” standard. Under this standard, the government could use the Patriot Act to obtain any records pertaining to a terrorist suspect, or the suspect’s activities, or any individual that the suspect has been in contact with or directly