resolution expressing the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States.

S. RES. 80

At the request of Mr. KIRK, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. Res. 80, a resolution condemning the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights.

S. RES. 174

At the request of Mr. LIEBERMAN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. Res. 174, a resolution expressing the sense of the Senate that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union.

S. RES. 176

At the request of Ms. MIKULSKI, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. Res. 176, a resolution expressing the sense of the Senate that the United States Postal Service should issue a semipostal stamp to support medical research relating to Alzheimer's disease.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 1011. A bill to improve the provisions relating to the privacy of electronic communications; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am pleased to introduce the Electronic Communications Privacy Act Amendments Act of 2011, a bill to bring our Federal electronic privacy laws into the digital age. Since the Electronic Communications Privacy Act, ECPA, was first enacted in 1986, the ECPA has been one of our Nation's premiere privacy laws. But, today, this law is significantly outdated and out-paced by rapid changes in technology and the changing mission of our law enforcement agencies after September 11.

In the digital age, American consumers and businesses face threats to privacy like no time in history. With the explosion of new technologies, including social networking sites, smartphones and other mobile applications, there are many new benefits to consumers. But, there are also many new risks to their privacy.

Just in the past few weeks, we have witnessed significant data breaches involving Sony and Epsilon that impact the privacy of millions of American consumers. We are also learning that smartphones and other new mobile technologies may be using and storing our location and other sensitive information posing other new risks to privacy.

When I led the effort to write the ECPA 25 years ago, no one could have contemplated these and other emerging threats to our digital privacy. Updating this law to reflect the realities of our time is essential to ensuring that our Federal privacy laws keep pace with new technologies and the new threats to our security.

This bill takes several steps to protect Americans' privacy in the digital age. First, the bill makes common sense changes to the law regarding the privacy protections afforded to consumers' electronic communications. Under the current law, a single e-mail could be subject to as many a four different levels of privacy protections, depending upon where it is stored and when it was sent. The bill gets rid of the so-called ''180-day rule'' and replaces this confusing mosaic with one clear legal standard for the protection of the content of e-mails and other electronic communications. Under my bill, service providers are expressly prohibited from disclosing customer content and the government must obtain a search warrant, based on probable cause, to compel a service provider to disclose the content of a customer's electronic communications to the government.

This bill also provides important new consumer privacy protections for location information that is collected, used, or stored by service providers, smartphones, or other mobile technologies. To protect consumer privacy, my bill requires that the government obtain either a search warrant, or a court order under the Foreign Intelligence Surveillance Act, in order to access or use an individual's smartphone or other electronic communications device to obtain geolocation information. There are well-balanced exceptions to the warrant requirement if the government needs to obtain location information to address an immediate threat to safety or national security, or when there is user consent or a call for emergency services. The bill also requires that the government obtain a search warrant in order to obtain contemporaneous, real-time, location information from a provider. There is an exception to the warrant requirement for emergency calls for service.

To address the role of new technologies in the changing mission of law enforcement, the bill also provides important new tools to law enforcement to fight crime and keep us safe. The bill clarifies the authority under the ECPA for the government to temporarily delay notifying an individual of that fact that the government has accessed the contents of their electronic communications, to protect the integrity of a government investigation. The bill also gives new authority to the government to delay notification in order to protect national security.

Lastly, the ECPA Amendments Act strengthens the tools available in ECPA to protect our national security and the security of our computer networks. The legislation creates a new limited exception to the nondisclosure requirements under the ECPA, so that a service provider can voluntarily disclose content to the government that is pertinent to addressing a cyberattack. To protect privacy and civil liberties, the bill also requires that, among other things, the Attorney General and the Secretary of Homeland Security submit an annual report to Congress detailing the number of accounts from which their departments received voluntary disclosures under this new cybersecurity exception.

In addition, the bill clarifies the kinds of subscriber records that the Federal Bureau of Investigations may obtain from a provider in connection with a counterintelligence investigation. This reform will help to make the process for obtaining this information more certain and efficient for both the government and providers.

I drafted this bill with one key principle in mind, that updates to the Electronic Communication Privacy Act must carefully balance the interests and needs of consumers, law enforcement, and our Nation's thriving technology sector. I also drafted this bill in careful consultation with many government and private sector stakeholders, including the Departments of Justice and Commerce, State and local law enforcement, and members of the technology and privacy communities.

I thank the Digital Due Process Coalition and the many other stakeholders who support this bill. I also thank the Departments of Commerce and Justice for their guidance on how the ECPA impacts the needs of our law enforcement community and our national economy. I look forward to continuing to work with all of these stakeholders as this bill moves forward.

Two decades before Congress first enacted the Electronic Communications Privacy Act, Chief Justice Earl Warren wisely opined that ''the fantastic advances in the field of electronic communications constitute a greater danger to the privacy of the individual.'' This aptly describes the state of our digital privacy rights today. The balanced reforms in this bill will help ensure that our Federal privacy laws address the many dangers to personal privacy posed by the rapid advances in electronic communications technologies. Accomplishing this challenging task will not be easy. But, with the introduction of the Electronic Communications Privacy Act Amendments Act of 2011, we take a significant step towards this very important goal.

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. 1011

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electronic Communications Privacy Act Amendments Act of 2011''.

SEC. 2. PROHIBITION ON DISCLOSURE OF CONTENT.

Section 2702(a)(3) of title 18, United States Code, is amended to read as follows:

''(3) a provider of electronic communication service, remote computing service, or geolocation information service to the public shall not knowingly divulge to any governmental entity the contents of any communication described in section 2703(a), or any record or other information pertaining to a subscriber or customer of such provider or service.''.

SEC. 3. ELIMINATION OF 180 DAY RULE AND SEARCH WARRANT REQUIREMENT; REQUIRED DISCLOSURE OF CUSTOMER RECORDS.

(a) IN GENERAL.—Section 2703 of title 18, United States Code, is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—

''(1) IN GENERAL.—A governmental entity may require the disclosure by a provider of electronic communication service, remote computing service, or geolocation information service of the contents of a wire or electronic communication that is in electronic storage with or otherwise held or maintained by the provider if the governmental entity obtains a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) that is issued by a court of competent jurisdiction directing the disclosure.

''(2) NOTICE.—Except as provided in section 2705, not later than 3 days after a governmental entity receives the contents of a wire or electronic communication of a subscriber or customer from a provider of electronic communication service, remote computing service, or geolocation information service under paragraph (1), the governmental entity shall serve upon, or deliver to by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective, as specified by the court issuing the warrant, the subscriber or customer—

''(A) a copy of the warrant; and

''(B) a notice that includes the information referred to in section 2705(a)(5)(B)(i).

''(b) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE, REMOTE COMPUTING SERVICE, OR GEOLOCATION INFORMATION SERVICE.—

''(1) IN GENERAL.—Subject to paragraph (2) and subsection (g), a governmental entity may require a provider of electronic communication service, remote computing service, or geolocation information service to disclose a record or other information pertaining to a subscriber or customer of the provider or service (not including the contents of communications), only if the governmental entity—

''(A) obtains a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) that is issued by a court of competent jurisdiction directing the disclosure;

''(B) obtains a court order directing the disclosure under subsection (c);

''(C) has the consent of the subscriber or customer to the disclosure; or

''(D) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of the provider or service that is engaged in telemarketing (as defined in section 2325).

''(2) SUBPOENAS.—

''(A) IN GENERAL.—A governmental entity may require a provider of electronic communication service, remote computing service, or geolocation information service to disclose information described in subparagraph (B) if the governmental entity obtains—

''(i) an administrative subpoena under a Federal or State statute; or

''(ii) a Federal or State grand jury subpoena or trial subpoena.

''(B) REQUIREMENTS.—The information described in this subparagraph is—

''(i) the name of the subscriber or customer;

''(ii) the address of the subscriber or customer;

''(iii) the local and long distance telephone connection records, or records of session times and durations, of the subscriber or customer;

''(iv) length of service (including start date) and types of service utilized by the subscriber or customer;

''(v) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, of the subscriber or customer; and

''(vi) means and source of payment for such service (including any credit card or bank account number) of the subscriber or customer.

''(3) NOTICE NOT REQUIRED.—A governmental entity that receives records or information under this subsection is not required to provide notice to a subscriber or customer.''; and

(2) by redesignating subsections (d) through (g) as subsections (c) through (f), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 2258A.—Section 2258A(h)(1) of title 18, United States Code, is amended by striking ''section 2703(f)'' and inserting ''section 2703(e)''.

(2) SECTION 2703.—Section 2703(c) of title 18, United States Code, as redesignated by subsection (a), is amended—

(A) by striking ''A court order for disclosure under subsection (b) or (c)'' and inserting ''A court order for disclosure under subsection (b)(1)(B) or (g)(3)(A)(ii)''; and

(B) by striking ''the contents of a wire or electronic communication, or the records or other information sought,'' and inserting ''the records, other information, or historical geolocation information sought''.

(3) SECTION 2707.—Section 2707(a) of title 18, United States Code, is amended by striking ''section 2703(e)'' and inserting ''section 2703(d)''.

(4) SECTION 3486.—Section 3486(a)(1)(C)(i) of title 18, United States Code, is amended by striking ''section 2703(c)(2)'' and inserting ''section 2703(b)(2)(B)''.

SEC. 4. DELAYED NOTICE.

Section 2705 of title 18, United States Code, is amended to read as follows:

''§ 2705. Delayed notice

''(a) DELAY OF NOTIFICATION.—

''(1) IN GENERAL.—A governmental entity that is seeking a warrant under section 2703(a) may include in the application for the warrant a request for an order delaying the notification required under section 2703(a) for a period of not more than 90 days.

''(2) DETERMINATION.—A court shall grant a request for delayed notification made under paragraph (1) if the court determines that there is reason to believe that notification of the existence of the warrant may result in—

''(A) endangering the life or physical safety of an individual;

''(B) flight from prosecution;

''(C) destruction of or tampering with evidence;

''(D) intimidation of potential witnesses;

''(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial; or

''(F) endangering national security.

''(3) EXTENSION.—Upon request by a governmental entity, a court may grant 1 or more extensions of the delay of notification granted under paragraph (2) of not more than 90 days.

''(4) EXPIRATION OF THE DELAY OF NOTIFICATION.—Upon expiration of the period of delay of notification under paragraph (2) or (3), the governmental entity shall serve upon, or deliver to by registered or first-class mail, electronic mail or other means reasonably calculated to be effective as specified by the court approving the search warrant, the customer or subscriber—

''(A) a copy of the warrant; and

''(B) notice that informs the customer or subscriber—

''(i) that information maintained for the customer or subscriber by the provider of electronic communication service, remote computing service, or geolocation information service named in the process or request was supplied to, or requested by, the governmental entity;

''(ii) of the date on which the request to the provider for information was made by the governmental entity and the date on which the information was provided by the provider to the governmental entity;

''(iii) that notification of the customer or subscriber was delayed;

''(iv) the identity of the court authorizing the delay; and

''(v) of the provision of this chapter under which the delay was authorized.

''(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—

''(1) IN GENERAL.—A governmental entity that is obtaining the contents of a communication or information or records under section 2703 or geolocation information under section 2713 may apply to a court for an order directing a provider of electronic communication service, remote computing service, or geolocation information service to which a warrant, order, subpoena, or other directive under section 2703 or 2713 is directed not to notify any other person of the existence of the warrant, order, subpoena, or other directive for a period of not more than 90 days.

''(2) DETERMINATION.—A court shall grant a request for an order made under paragraph (1) if the court determines that there is reason to believe that notification of the existence of the warrant, order, subpoena, or other directive may result in—

''(A) endangering the life or physical safety of an individual;

''(B) flight from prosecution;

''(C) destruction of or tampering with evidence;

''(D) intimidation of potential witnesses;

''(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial; or

''(F) endangering national security.

''(3) EXTENSION.—Upon request by a governmental entity, a court may grant 1 or more extensions of an order granted under paragraph (2) of not more than 90 days.''.

SEC. 5. LOCATION INFORMATION PRIVACY.

(a) IN GENERAL.—Chapter 121 of title 18, United States Code, is amended by adding at the end the following:

''§ 2713. Location tracking of electronic communications device

''(a) PROHIBITION.—Except as provided in subsection (b), (c), or (d), no governmental entity may access or use an electronic communications device to acquire geolocation information.

''(b) ACQUISITION PURSUANT TO A WARRANT OR COURT ORDER.—A governmental entity may access or use an electronic communications device to acquire geolocation information if the governmental entity obtains—

''(1) a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure relating to tracking devices (or, in the case of a State court, issued using State warrant procedures), issued by a court of competent jurisdiction authorizing the accessing or use of an electronic communications device to acquire geolocation information; or

''(2) a court order under title I or title VII of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq. and 1881 et seq.) authorizing the accessing or use of an electronic communications device to acquire geolocation information.

''(c) PERMITTED ACQUISITIONS WITHOUT COURT ORDER.—A governmental entity may access or use an electronic communications device to acquire geolocation information—

''(1) as permitted under section 222(d)(4) of the Communications Act of 1934 (47 U.S.C. 222(d)(4)) in order to respond to a call for emergency services by a user of an electronic communications device; or

''(2) with the express consent of the owner or user of the electronic communications device concerned.

''(d) EMERGENCY ACQUISITION OF GEOLOCATION INFORMATION.—

''(1) IN GENERAL.—Subject to paragraph (2), an investigative or law enforcement officer specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, any United States attorney, any acting United States attorney, or the principal prosecuting attorney of any State or political subdivision thereof acting pursuant to a statute of that State may access or use an electronic communications device to acquire geolocation information if the investigative or law enforcement officer reasonably determines that—

''(A) an emergency situation exists that—

''(i) involves—

''(I) immediate danger of death or serious bodily injury to any person;

''(II) conspiratorial activities characteristic of organized crime; or

''(III) an immediate threat to national security; and

''(ii) requires the accessing or use of an electronic communications device to acquire geolocation information before an order authorizing the acquisition may, with due diligence, be obtained; and

''(B) there are grounds upon which an order could be entered under this section to authorize the accessing or use of an electronic communications device to acquire geolocation information.

''(2) ORDER AND TERMINATION.—If an investigative or law enforcement officer accesses or uses an electronic communications device to acquire geolocation information under paragraph (1)—

''(A) not later than 48 hours after the activity to acquire the geolocation information has occurred, or begins to occur, the investigative or law enforcement officer shall seek a warrant or order described in subsection (b) approving the acquisition; and

''(B) unless a warrant or order described in subsection (b) is issued approving the acquisition, the activity to acquire the geolocation information shall terminate immediately at the earlier of the time—

''(i) the information sought is obtained;

''(ii) the application for the warrant or order is denied; or

''(iii) at which 48 hours have elapsed since the activity to acquire the geolocation information began to occur.

''(3) VIOLATION AND SUPPRESSION OF EVIDENCE.—

''(A) IN GENERAL.—In a circumstance described in subparagraph (B), a court may determine that—

''(i) no information obtained, or evidence derived from, geolocation information acquired as part of the accessing or use of an electronic communications device to acquire geolocation information may be received into evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof; and

''(ii) no information concerning any person acquired from the geolocation information may be used or disclosed in any other manner, without the consent of the person.

''(B) CIRCUMSTANCES.—A circumstance described in this subparagraph is any instance in which—

''(i) an investigative or law enforcement officer does not—

''(I) obtain a warrant or order described in subsection (b) within 48 hours of commencing the accessing or use of the electronic communications device; or

''(II) terminate the activity to acquire geolocation information in accordance with paragraph (2)(B); or

''(ii) a court denies the application for a warrant or order approving the accessing or use of an electronic communications device to acquire geolocation information.

''(e) ASSISTANCE AND COMPENSATION.—

''(1) IN GENERAL.—A warrant described in subsection (b)(1) authorizing the accessing or use of an electronic communications device to acquire geolocation information shall, upon request of the applicant, direct that a provider of electronic communication service, remote computing service, or geolocation information service shall provide to the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the acquisition unobtrusively and with a minimum of interference with the services that the provider is providing to or through the electronic communications device in question.

''(2) COMPENSATION.—Any provider of electronic communication service, remote computing service, or geolocation information service providing information, facilities, or technical assistance under a directive under paragraph (1) shall be compensated by the applicant for reasonable expenses incurred in providing the information, facilities, or assistance.

''(f) NO CAUSE OF ACTION AGAINST A PROVIDER.—No cause of action shall lie in any court against any provider of electronic communication service, remote computing service, or geolocation information service, or an officer, employee, or agent of the provider or other specified person for providing information, facilities, or assistance necessary to accomplish an acquisition of geolocation information authorized under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title 18 of the United States Code is amended—

(1) in the table of sections for chapter 121, by adding at the end the following:

''2713. Location tracking of electronic communications device.'';

(2) in section 2703—

(A) in subsection (d), as redesignated by section 3, by inserting ''geolocation information service, or remote computing service,'' after ''electronic communication service,'';

(B) in subsection (e)(1), as redesignated by section 3, by striking ''electronic communication services or a'' and inserting ''electronic communication service, geolocation information service, or''; and

(C) in subsection (f), as redesignated by section 3—

(i) by inserting '', geolocation information service,'' after ''electronic communication service''; and

(ii) by inserting '', geolocation information,'' after ''contents of communications'';

(3) in section 2711—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(5) the term 'electronic communications device' means any device that enables access to or use of an electronic communications system, electronic communication service, remote computing service, or geolocation information service;

''(6) the term 'geolocation information'—

''(A) means any information concerning the location of an electronic communications device that is in whole or in part generated by or derived from the operation or use of the electronic communications device;

''(B) does not include—

''(i) information described in section 2703(b)(2)(B); or

''(ii) the contents of a communication;

''(7) the term 'geolocation information service' means the provision of a global positioning service or other mapping, locational, or directional information service;

''(8) the term 'electronic communication identifiable information' means the—

''(A) name of a person or entity;

''(B) address of a person or entity;

''(C) records of session times and durations of a person or entity;

''(D) length of service and types of service used by a person or entity;

''(E) telephone or instrument number or other subscriber number or identity (including any temporarily assigned network address) of a person or entity; and

''(F) dialing, routing, addressing, and signaling information associated with each communication to or from the subscriber account of a person or entity (including the date, time, and duration of the communications, without geographical limit);

''(9) the term 'toll billing records' means the—

''(A) name of a person or entity;

''(B) address of a person or entity;

''(C) length of service of a person or entity; and

''(D) local and long distance billing records of a person or entity; and

''(10) the term 'customer' means any person, or authorized representative of that person, who used or is using any service provided by an electronic communication service, remote computing service, or geolocation information service, regardless of whether the service was, or is, being provided for a monetary fee.''; and

(4) in section 3127—

(A) in paragraph (1), by striking ''and 'contents' have'' and inserting '' 'contents', and 'geolocation information' have'';

(B) in paragraph (3), by inserting '' or geolocation information,'' after ''contents of any communication''; and

(C) in paragraph (4), by inserting ''or geolocation information'' after ''contents of any communication''.

SEC. 6. REQUIRED DISCLOSURE OF LOCATION INFORMATION AND WARRANT REQUIREMENT.

Section 2703 of title 18, United States Code, as amended by section 3, is amended by adding at the end the following:

''(g) LOCATION INFORMATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a governmental entity may not require a provider of electronic communication service, remote computing service, or geolocation information service to disclose geolocation information contemporaneously or prospectively.

''(2) EXCEPTIONS.—

''(A) WARRANTS.—A governmental entity may require a provider of electronic communication service, remote computing service, or geolocation information service to disclose geolocation information contemporaneously or prospectively pursuant to a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures), issued by a court of competent jurisdiction.

''(B) CALL FOR EMERGENCY SERVICES.—A provider of electronic communication service, remote computing service, or geolocation information service may provide geolocation information contemporaneously or prospectively to a governmental entity as permitted under section 222(d)(4) of the Communications Act of 1934 (47 U.S.C. 222(d)(4)) in order to respond to a call for emergency services by a user of an electronic communications device.

''(3) HISTORICAL LOCATION INFORMATION.—

''(A) IN GENERAL.—A governmental entity may require a provider of electronic communication service, remote computing service, or geolocation information service to disclose historical geolocation information pertaining to a subscriber or customer of the provider only if the governmental entity—

''(i) obtains a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) that is issued by a court of competent jurisdiction directing the disclosure;

''(ii) obtains a court order directing the disclosure under subsection (c); or

''(iii) has the consent of the subscriber or customer to the disclosure.

''(B) NOTICE NOT REQUIRED.—A governmental entity that receives historical geolocation information under subparagraph (A) is not required to provide notice to a subscriber or customer.''.

SEC. 7. VOLUNTARY DISCLOSURES TO PROTECT CYBERSECURITY.

Section 2702 of title 18, United States Code is amended—

(1) in subsection (b)(5), by inserting '', cybersecurity,'' after ''rights'';

(2) in subsection (c)(3), by inserting '', cybersecurity,'' after ''rights''; and

(3) by adding at the end the following:

''(e) REPORTING OF CYBERSECURITY DISCLOSURES.—On an annual basis, the Attorney General of the United States shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report containing—

''(1) the number of accounts from which the Federal Government has received voluntary disclosures under subsection (b)(5) that pertain to the protection of cybersecurity; and

''(2) a summary of the basis for disclosure in each instance where—

''(A) a voluntary disclosure under subsection (b)(5) that pertains to the protection of cybersecurity was made to the Department of Justice; and

''(B) the investigation pertaining to the disclosure was closed without the filing of criminal charges.''.

SEC. 8. ELECTRONIC COMMUNICATION IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 2709(a) of title 18, United States Code, is amended by striking ''electronic communication transactional records'' and inserting ''electronic communication identifiable information''.

(b) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

''(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or a designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may request the toll billing records and electronic communication identifiable information of a person or entity if the Director (or designee) certifies in writing to the wire or electronic communication service provider or geolocation information service provider to which the request is made that the toll billing records and electronic communication identifiable information sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States.''.

By Mr. BAUCUS (for himself, Mr. HATCH, Mr. ROCKEFELLER, and Mr. ENZI):

S. 1013. A bill to renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs; to the Committee on Finance.

Mr. BAUCUS. Mr. President, the Finance Committee has a long history of working together in a bi-partisan fashion in the interest of children in Montana and across the Nation. I am happy to have you as a partner on child welfare issues. The Fostering Connections to Success and Increasing Adoptions Act of 2008 was a first step on the road to reforming the child welfare system. Today, with the introduction of the State Child Welfare Innovation Act, we take another step on the path toward making lives better for the children we serve.

As the authors of this legislation, we build on the successes of waivers since they were first authorized in 1994. Since that time, these waivers have given States the flexibility needed to focus on new practices that prevent abuse and neglect and encourage permanency for children in our child welfare system.

It is important for us to understand that the goal of reauthorizing child welfare waivers is not simply to develop and test new service delivery models, but to put in place sound practices that state innovation has determined to be effective in increasing positive outcomes for youth in the system.

Our March 11 hearing entitled ''Innovations in Child Welfare Waivers'' continued a productive conversation and helped us to craft legislation to address some of the issues facing our Nation's most-vulnerable youth. I was happy we were able to welcome two graduates of the foster care system to share their perspectives. In our conversations with youth, service providers and local government officials, we have noted the successes of the program in spurring innovative new practices while listening to the concerns regarding the challenges that they have faced in the implementation of these waivers and in the system overall.

In this legislation, we continued to focus the waivers on producing improvements in three important areas: the prevention of abuse and neglect; safety for children at home and in placements; and permanency outcomes. We have also asked States to focus on increasing the quality of care for kids in the foster care system. We heard from youth about what is important to them, including knowing what your rights are and understanding how to reconnect with biological parents in a healthy way. I am so pleased we were able to work together to give States the opportunity and incentive to address these concerns.

Mr. HATCH. Mr. President, I am also pleased to join with my partner on the Senate Finance Committee in producing bipartisan legislation that gives States increased flexibility to improve the lives of children and youth.

The legislation we will introduce today is the product of many months of work and is the result of an open and transparent process bringing together relevant stakeholders. The Committee has heard from the state groups, the advocacy community and most importantly, youth both in and out of the foster care system. Young people in ''Foster Club,'' have a saying: ''Nothing about us, without us.'' We have taken their motto to heart and the legislation we are introducing today reflects years of input for youth in and out of foster care.

I agree with the Chairman of the Finance Committee when he characterized the State Child Welfare Innovation Act as another step on the pathway to comprehensive child welfare reform.

Comprehensive child welfare reform is desperately needed. The current financing system is antiquated, relying on an income eligibility proxy dating back to pre-welfare reform standards. The majority of Federal support goes to the least desirable outcome: the placement of a child or youth into foster care. Federal priorities should be aligned so that States are able to keep families together, safely.

But financing reform is not enough. The underlying foster care system needs to be improved. Often times when children enter foster care, siblings are separated. Children and youth are shuttled from place to place. Their education is disrupted. Their ability to play sports or engage in after school

activities is thwarted. Under the current system, about 30,000 young people a year exit foster care without a permanent connection and are at risk for homelessness, incarceration and drug abuse.

My State of Utah informs me that with flexibility, Utah can improve on the State's decade-old effort to protect children and strengthen families.

As we look to make improvements to our social service delivery systems, we should be relying on the States to chart the way through flexibility and innovation. The States are the critical units within our constitutional democracy. The States are the laboratories of democracy, where appropriate solutions to problems are best crafted. The Federal Government needs to give States maximum flexibility in crafting solutions that work for their citizens. I am pleased that this legislation is consistent with that approach and look forward to making further progress to improve the lives of children and young people.

Mr. BAUCUS. I am happy to introduce this legislation with my partner on the Senate Finance Committee, the Ranking Member of that Committee, Senator HATCH. I look forward to a new chapter in our work together that helps put our Nation's child welfare system on the pathway to reform.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. CORNYN, Ms. KLOBUCHAR, Mr. MCCAIN, Mrs. HUTCHISON, and Mr. FRANKEN):

S. 1014. A bill to provide for additional Federal district judgeships; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce, together with my colleague and friend Senator KYL, the Emergency Judicial Relief Act of 2011.

This bill would create a total of ten District judgeships in five courts across the country that are facing true emergency situations.

I want to thank our cosponsors, Senators CORNYN, KLOBUCHAR, BOXER, MCCAIN, HUTCHISON, and FRANKEN, for working with Senator KYL and me on this bill.

As a member of the Senate, I take very seriously our duty to ensure that the Nation's Federal courts have the resources they need to administer justice for the American people. Our Federal courts bear responsibility for adjudicating criminal cases, deciding civil rights and employment cases, and resolving commercial disputes between companies. When our courts become overburdened, we leave crime victims and criminal defendants in limbo and civil litigants without resolution to their problems.

In the Eastern District of California, the need for additional judges is acute. This District, which extends over 87,000 miles and encompasses California's Central Valley, faces far and away the worst caseload crisis in the Nation.

The District is home to more than eight million Californians, but it has only 6 active District Judges. For three decades, the District's population has been steadily growing, but the size of the Court has been unchanged. Congress has not created a permanent judgeship in the Eastern District since 1978 and the only temporary judgeship created was allowed to expire and never renewed despite repeated attempts by myself and Senator LEAHY.

The result is unacceptable. As of December 31, 2010, the District was managing 1,133 weighted filings per authorized judgeship, a caseload that is not only the highest in the Nation, but also 300 weighted filings per judge higher than any other District Court in the country and almost three times the threshold at which the Judicial Conference recommends additional judgeships.

For everyday life, what this means is that individuals and businesses must wait months, or even years to have their disputes resolved. According to the most recent statistics, criminal felony cases remained pending in this court for a median of 12.7 months; and more than 10 percent of all civil cases were taking more than 3 years from the date of filing to be decided.

The delay is not for lack of effort. As Judge Lawrence O'Neill testified before the Senate Judiciary Committee in 2009, the Eastern District's judges are among the most productive in the Nation, and the court is utilizing every resource currently at its disposal. The caseloads are simply unmanageable.

U.S. Supreme Court Chief Justice John Roberts has publicly remarked on the problems in the District; so has Associate Justice Anthony Kennedy; and the Judicial Conference of the United States has formally called on Congress to create more judgeships here.

The Emergency Judicial Relief Act of 2011 would provide a narrow, targeted solution.

The bill would create new judgeships in five Districts across the country where the need is most staggering, four in the Eastern District of California, two in the District of Arizona; two in the Western District of Texas; one in the Southern District of Texas; and one in the District of Minnesota. Additionally, the bill would convert a temporary judgeship in the District of Arizona and one in the Central District of California to permanent status. The bill would be offset by raising civil filing fees $10, from $350 to $360.

Let me be clear. California needs far more judgeships than this bill would create, and I will work with my colleagues to create those badly needed judgeships.

In the meantime, this bill is a narrow, emergency measure to provide relief in the handful of Districts that need it the very most.

I urge my colleagues to work with me to pass this commonsense, good government bill.

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. 1014

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Emergency Judicial Relief Act of 2011''.

SEC. 2. FEDERAL DISTRICT JUDGESHIPS.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 2 additional district judges for the district of Arizona;

(2) 4 additional district judges for the eastern district of California;

(3) 1 additional district judge for the district of Minnesota;

(4) 1 additional district judge for the southern district of Texas; and

(5) 2 additional district judges for the western district of Texas.

(b) CONVERSION OF TEMPORARY JUDGESHIPS.—The existing judgeships for the district of Arizona and the central district of California authorized by section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133 note; Public Law 107–273; 116 Stat. 1788), as of the effective date of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the district of Arizona and inserting the following:

''Arizona	15'';

(2) by striking the item relating to California and inserting the following:

''California:	
Northern	14
Eastern	10
Central	28
Southern	13'';

(3) by striking the item relating to the district of Minnesota and inserting the following:

''Minnesota	8''; and

(4) by striking the item relating to Texas and inserting the following:

''Texas:	
Northern	12
Southern	20
Eastern	7
Western	15''.

(d) INCREASE IN FILING FEES.—Section 1914(a) of title 28, United States Code, is amended by striking ''$350'' and inserting ''$360''.

By Mr. BINGAMAN (for himself, Mr. CRAPO, Mr. KERRY, Ms. SNOWE, Mr. CARDIN, and Mr. GRASSLEY):

S. 1016. A bill to amend the Internal Revenue Code of 1986 to permanently modify the limitations on the deduction of interest by financial institutions which hold tax-exempt bonds, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Municipal Bond Market Support Act of 2011. This bill is

similar to ones that Senator CRAPO and I introduced in the 110th and 111th Congresses. I am grateful for Senator CRAPO's continued leadership on this issue, as well as the cosponsorship of our Finance Committee colleagues, Senators KERRY, SNOWE, CARDIN, and GRASSLEY.

Municipal bonds have long played an essential role in financing the construction, expansion, and repair of schools; highways, roads, and bridges; affordable housing; hospitals; public transit; water and sewage systems; and community-owned utilities. Since the enactment of the Federal income tax in 1913, Congress has supported the municipal bond market by exempting municipal bond interest from taxation. Tax exemption confers Federal assistance on State and local capital investments; it also recognizes that decisions about which projects to fund are most appropriately made at the State or local level.

Historically, banks were significant purchasers of tax-exempt debt. But the Tax Reform Act of 1986 severely curtailed banks' participation by automatically disallowing deductions for interest expense whenever municipal bonds are purchased. The 1986 Act left an exception only for bonds purchased from smaller municipalities, those selling no more than $10 million of bonds each year. But because the $10 million level was not indexed to inflation, its purchasing power has eroded significantly since 1986, leaving many smaller governments and non-profit educational and health care facilities either to defer projects to comply with this low limit or find non-bank purchasers.

I was very pleased that the American Recovery and Reinvestment Act incorporated a bill that Senator CRAPO and I introduced, the Municipal Bond Market Support Act of 2009, raising the $10 million small issuer exception to $30 million. Additionally, the Recovery Act included a provision ensuring that the small issuer is made applicable at the ultimate borrower level, so that bonds benefiting non-profit universities and hospitals will not exceed the limitation merely because they issue bonds through statewide authorities.

Taken together, those steps significantly enhanced demand for debt issued by small municipal governments, enabling municipalities across the Nation, and particularly those in small and rural communities, to finance the critical infrastructure projects that play an important role in growing our national economy.

In 2009, the dollar amount of bank qualified issuances reached $32.7 billion, double the prior year's level, with more than 6,000 issuances. Beneficiaries included a broad range of counties, cities, and school districts in all corners of my home state of New Mexico. For instance, the proceeds of a $17 million bond issued by Santa Fe County financed roads, trails and parks for open space, a fire facility, a solid waste transfer station, water rights acquisition and water projects. The City of Artesia completed two bank-qualified transactions, to finance building a public safety complex and a new waste water treatment facility. The Bloomfield School District placed $19 million in bank-qualified debt to finance capital expenditures. Similarly, in 2010, issuances climbed even further, to $36.8 billion, with more than 6,700 issuances representing a similarly diverse array of counties, cities, school districts, infrastructure districts, and hospitals across my home state of New Mexico and the country.

The ARRA-enacted provisions helped small communities across New Mexico and the country finance critical infrastructure needs and create jobs. The higher bank-qualified limit is a great success and deserves to be made permanent. The bill that Senators CRAPO, KERRY, SNOWE, CARDIN, GRASSLEY, and I are introducing today would do just that, ensuring that smaller governments and non-profit educational and health care facilities can finance their capital needs, particularly in periods of tight credit, and save taxpayer dollars.

At least 14 national organizations representing issuers of tax-exempt bonds are supporting the Act. These include the American Hospital Association; American Public Power Association; Council of Development Finance Authorities; Council of Infrastructure Financing Authorities; Government Finance Officers Association; International City/County Management Association; International Municipal Lawyers Association; National Association of College and University Business Officers; National Association of Counties; National Association of Health and Educational Facilities Finance Authorities; National Association of State Auditors, Comptrollers, and Treasurers; National Association of State Treasurers; National League of Cities; and the U.S. Conference of Mayors. I urge my colleagues to join these organizations in supporting our bill, to ensure that small municipalities across the country are able to finance critical infrastructure projects at reduced costs to their residents.

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. 1016

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Municipal Bond Market Support Act of 2011''.

SEC. 2. PERMANENT MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) PERMANENT INCREASE IN LIMITATION.—Subparagraphs (C)(i), (D)(i), and (D)(iii)(II) of section 265(b)(3) of the Internal Revenue Code of 1986 are each amended by striking ''$10,000,000'' and inserting ''$30,000,000''.

(b) PERMANENT MODIFICATION OF OTHER SPECIAL RULES.—Paragraph (3) of section 265(b) of the Internal Revenue Code of 1986 is amended—

(1) by redesignating clauses (iv), (v), and (vi) of subparagraph (G) as clauses (ii), (iii), and (iv) of such subparagraph, respectively, and

(2) by striking so much of subparagraph (G) as precedes such clauses and inserting the following:

''(G) QUALIFIED 501(C)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION.—In the case of a qualified 501(c)(3) bond (as defined in section 145), this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer.

''(H) SPECIAL RULE FOR QUALIFIED FINANCINGS.—

''(i) IN GENERAL.—In the case of a qualified financing issue—

''(I) subparagraph (F) shall not apply, and

''(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt obligation if the requirements of this paragraph are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue which is issued by the qualified borrower with respect to which such portion relates).''.

(c) INFLATION ADJUSTMENT.—Paragraph (3) of section 265(b) of the Internal Revenue Code of 1986, as amended by subsection (b), is amended by adding at the end the following new subparagraph:

''(I) INFLATION ADJUSTMENT.—In the case of any calendar year after 2011, the $30,000,000 amounts contained in subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2010' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100,000.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 186—HONORING THE 100TH ANNIVERSARY OF THE UNITED STATES ARMY FIELD ARTILLERY SCHOOL AT FORT SILL, OKLAHOMA

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 186

Whereas May 19, 2011, has been set aside as Field Artillery Day at Fort Sill, Oklahoma, the Home of the Field Artillery, to commemorate the 100th anniversary of the School of Fire for the Field Artillery;

Whereas the School of Fire for the Field Artillery at Fort Sill was established on June 5, 1911, under the command of Captain Dan T. Moore, its first commandant;

Whereas the first class of 14 captains and 22 non-commissioned officers arrived on September 15, 1911, and the school continues to operate today as the world renowned United States Army Field Artillery School;

Whereas thousands of soldiers, Marines, and allied foreign military students have