

difficult behind-the-scenes work to keep us all safe. But at the same time, I believe our civil liberties and our right to privacy need to be protected. I do not believe they are sufficiently protected under the current law. So simply extending current law for 5 more years is irresponsible, and it is not a reflection of our values.

There are a few ways this bill falls short. I am especially concerned about the practice of reverse-targeting. The deputy majority leader talked about it about an hour ago.

The intelligence community does not need a warrant to conduct surveillance on someone located overseas. I think we can all agree there is no problem there. The problem comes when the intelligence community conducts surveillance on someone overseas where the real purpose is to gain information about someone right here in America. That can happen without a warrant, and we should not let that happen without a warrant.

Our national security is not threatened if we require this information to be tagged and sequestered and subject to judicial review. It would merely ensure that the information intercepted overseas in the form of communications to or from an American citizen would have to be overseen by the courts. Current law is supposed to prohibit this practice, but there really is no way to enforce the prohibition. That leaves the door open for abuse. That is simply unacceptable.

Unfortunately, neither Senator WYDEN nor I are able to offer our amendments that would address this hole in our privacy rights.

We can do better. We can also do better when it comes to transparency. The simplest amendment the Senate can approve today is the one I am proud to cosponsor. It is the Wyden amendment to require the Director of National Intelligence to report to Congress on the impact of FISA amendments on the privacy of American citizens. It is a commonsense amendment.

The report could be classified but would no longer allow the intelligence community to ignore requests for information from Congress. Why in the world do we not require the intelligence community to be accountable to us for its actions? It is our responsibility in Congress to hold the entire executive branch accountable. If we do not ask these questions, we are simply not doing our job. That is true whether it is President Obama, President Bush, or some other President.

I hope we can adopt the Wyden amendment to improve the reporting requirements of FISA. I urge my colleagues to support this commonsense amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 1, for the purpose of calling up and de-

bating the Coats amendment; that following the remarks of Senator COATS Senator ALEXANDER be recognized; the Senate resume consideration of the FISA bill, H.R. 5949; and that all provisions of the previous orders remain in effect.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT—Resumed

The PRESIDING OFFICER. The Senate will proceed to the consideration of H.R. 1, which the clerk will now report by title.

The legislative clerk read as follows:

A bill (H.R. 1) making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

Pending:

Reid amendment No. 3395, in the nature of a substitute.

AMENDMENT NO. 3391 TO AMENDMENT NO. 3395

(Purpose: In the nature of a substitute.)

Mr. COATS. Mr. President, I call up amendment No. 3391.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 3391.

(The amendment is printed in the RECORD of December 17, 2012, under "Text of Amendments.")

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I am cognizant of the fact that we will have a series of votes beginning in just 15 minutes, and so even though the unanimous consent request on this amendment is for 30 minutes equally divided, I am going to try to judiciously use this time between myself and Senator ALEXANDER to explain why we are offering this amendment, and hopefully our colleagues will be persuaded to support us when we vote on this probably tomorrow.

We are all, of course, sensitive to the pain and damage inflicted by Mother Nature in the Northeast. In fact, some of the Northeast is getting some more of that pain with a storm up there today.

No State or region in our country should be left to fend for itself after a storm as devastating as Hurricane Sandy. It is important to understand that many things have overwhelmed the ability of the States and local communities to deal with some of the effects of this, and that is why the Sandy emergency supplemental is before us attached to H.R. 1 and why we will be voting on that, I assume, tomorrow.

There are two versions before us; one is the Senate Democrats' emergency supplemental proposal. That totals \$60.4 billion. It includes nearly \$13 billion in mitigation funding. That goes for the next storm, not this storm.

There is \$3.46 billion for Army Corps of Engineers, \$500 million of which is projects from previous disasters; \$3 billion to repair or replace Federal assets that do not fall into the category of emergency need. There is \$56 million for tsunami cleanup on the west coast, which, of course, does not relate to Sandy. There is a lot of new authorizing language for reform of disaster relief programs, which I would support through the regular process. But without having gone through the authorizing committee, I don't think that is a good idea.

Our proposed alternative provides \$23.8 billion in funding for the next 3 months. We are not saying this is the be-all and end-all of what Congress will ultimately fund to meet the needs of those who have been impacted by Sandy. We are simply saying that before rushing to a number, which has not been fully scrubbed, fully looked at, plans haven't been fully developed yet—and that is understandable—we think it most important we provide emergency funding for those in immediate need over the next 3 months.

We have carefully worked with FEMA Director Fugate and we have worked with Secretary Donovan at HUD. We have worked through the Appropriations Committee to identify those specific needs that get to the emergency situations under which this bill is titled. It provides funding for States to allow them to begin to rebuild but also leaves us time to review what additional funds might be needed.

So rather than throwing out a big number and simply saying let us see what comes in under that number, let us look at the most immediate needs that have to be funded now and provide a sufficient amount of funds in order to do that. In fact, the amount we are providing would extend, in terms of outlays, far beyond March 27, but we want those mayors and we want those Governors to be able to begin the planning process of looking how they would go forward. We also want, in respect to our careful need, to carefully look at how we extend taxpayer dollars.

We want to allow this 3-month period of time for which the relevant committees in the Senate and the House of Representatives can look at these plans, can document the request, can examine the priorities that might be needed and then put a sensible plan in place that hopefully will be an efficient and effective use of taxpayer dollars. Therefore, we have struck from the Democratic proposal all moneys that would go to mitigation funding, not saying mitigation funding isn't necessary but simply saying it doesn't meet the emergency need this first 3-month proposal addresses. This will give States time to begin to rebuild but also allow us time to review what additional funds are needed for that rebuilding.

We don't allow authorizing language because we don't believe in authorizing something on an emergency appropriations bill that ought to go through the

authorizing committee. We focus specifically on Sandy-related needs. There are a number of other needs, as I have just addressed, that are perhaps legitimate, that ought to come through the regular process.

With that, let me turn to my colleague from Tennessee who has been working with me. I would say our Appropriations Committee, our Republican staff, has gone through this very carefully and tried to identify how we can get money for the essential needs to those people, to those communities that need them now. We want to be responsible in terms of spending taxpayer dollars by having a period of time in which we can look at the plans for the future and see what additional funds might be needed.

With that, I yield for the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I am here to join the Senator from Indiana, and I think I can presumptively speak for everybody in this body. We want to help the people in New York, New Jersey, and other Northeastern States that were hurt by Sandy. We have had some pretty tough disasters in Tennessee as well. We had a 1,000-year flood 2 years ago—not a 100-year flood but a 1,000-year flood. We knew the Federal Government wasn't going to make us whole. We had billions of dollars of damage, 52 counties hurt, but we knew the Federal Government could help and it did help and it helped swiftly and that is what we want to do in this case.

With all the talk about the money we are about to appropriate, I think it is important to remind those who live in New York, New Jersey, and Connecticut what is already being done with money we have already appropriated. For example, there are 4,402 FEMA personnel working in those States. There are 514,343 citizens of those States who have already filed individual assistance applications. This is when your home is gone and you need money for rent or you need money to rebuild. Those applications are in.

Already \$1.13 billion has been paid. There are 24 disaster recovery centers in New York, 24 in New Jersey and 1 in Connecticut. \$150 million in disaster loans have already been approved by the Small Business Administration, and more than 360,000 applications have been sent out.

The important fact to know is that help for victims of Hurricane Sandy doesn't depend on what we are about to do tonight. We already have money in the bank. We already have FEMA people on the ground. There is already help available. In my experience in our Tennessee disasters, that help comes in a matter of days, in most cases.

So what are we about to do? As Senator COATS said—and I wish to congratulate him for making a very sensible approach toward this—what we are about to say is this is \$24 billion

more for the accounts that are already helping people in the areas hurt by Sandy.

For example, there is over \$5 billion for the Disaster Relief Fund. That is just to make sure there is enough money to fund those half million requests that are already in. There is \$9.7 billion for flood insurance. If you have flood insurance, the Federal Government will be able to pay your claim. There is \$3.4 billion to repair roads and bridges. There is \$2 billion for community development block grants. We found in Tennessee that is especially flexible money, which is very helpful. That is \$2 billion between now and March. There is also \$500 million for the Small Business Administration.

So what is not included in the proposal we are offering. It doesn't include items that are not related to Hurricane Sandy. This is supposed to be about Hurricane Sandy. It doesn't make changes to the Stafford Act. What that means is we don't go in, in this emergency appropriations bill for the next 3 months, and make wholesale changes in the law, make things permanent that are temporary, and streamline regulations. They all may be good things to do, but we have a process for making legislative changes.

We don't include \$13 billion for unspecified future projects. They may be good projects, but if they are, we have a process to consider those projects. The distinguished Senator from California and I are the ranking members of one of the subcommittees that does some of that. We expect to do that next year. So we are filling the accounts that are already being used to help many people.

Finally, if I may say something about process—which I think would be more interesting to the Senators than to the people of New York and New Jersey—but it is important to know this bill came to the floor in record time. No one objected to its coming to the floor.

It was virtually unanimous, before we even started voting on amendments, that we agreed to invoke cloture and to have a final vote of 51 votes so the bill in some form will pass. In return for that, those of us on the minority side, so far as I know, got the amendments we wanted.

I simply want to say to my colleagues that it is still far from a perfect process in our effort to continue to improve the way the Senate works. The bill should have gone to committee to begin with. It did not. It could have been amended there. When it came to the floor on Monday, and we said come right on, no one objected to that, we should have started voting. We could have voted for 3 days on this bill: Tuesday, Wednesday, Thursday, instead of running around trying to see who had amendments. Let us just put them up and vote on them. Then we should have had the cloture vote which, as I said, was done with, I think, only one dissenting objection.

So the process has been better but not as good as it should be for the Senate. But Senator COATS' substitute is the right proposal. It is 24 billion more dollars now for the accounts that are already being used to help victims of Sandy.

The last thing I would say is this. When there is an emergency, Congress has always acted. We don't always do everything in the first week or second or third week because we already have money in the bank for those needs. But in Katrina, for example, there were nine different supplemental appropriations bills over time. The next wave of appropriations requests can come to us, and we will go to work on them in a few weeks. We can get to work in the committee right away, for example, and Senator FEINSTEIN and I could work on it a few weeks after that. Then the majority leader will bring the bills to the floor—which he did not last year—and we can vote on them and have the second round of funding.

So I thank the Senator from Indiana, Mr. COATS, for his hard work on this. We want the people of New York and New Jersey to know we want to help them, we are helping them, and will continue to be interested in the things that need to be done. It will not make them whole, but it will help them get on their feet, just as we have in Tennessee and just as we have in other States across the country after large disasters.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, may I inquire as to how much time is still available before the call up of the vote on the FISA legislation?

The PRESIDING OFFICER. The Senator from Indiana has approximately 2 minutes remaining.

Mr. COATS. Mr. President, I would like to use those 2 minutes, if I could, to sum up.

I thank the Senator from Tennessee for his support throughout this whole process. He has been instrumental in helping us work through this to find what we believe is a reasonable way to move forward and provide that immediate emergency help that is so badly needed up in the Northeast.

Let me just give one example of how we came to these numbers. We do provide, through the Transportation, Housing and Urban Development appropriations, \$32 million for repairs of Amtrak's infrastructure, dewatering of tunnels, electrical systems, overhead wires. These are immediate needs, and we want to provide funding for them.

There is funding for highway emergency relief directly related to Sandy. We fund for that. We fund for public transportation infrastructure, immediate needs between now and March. Again, we are not saying there might not be need for more funding after this, but we will at least have had the opportunity to vet that and look to ensure that the money is correctly spent. What we didn't do under that appropriations was \$30 million of damages

that come under the FAA existing budget, the funding for highway projects not related to Sandy that are in the Democratic bill and mitigation projects unrelated to Sandy.

Again, we are not against mitigation, but we are saying let us focus on Sandy. Let us get the emergency help to those who need it now. Let us get it there in an ample amount of time and money for them. Then let us take up, through the regular process and we carefully examine how we spend the taxpayers' money, providing those needed funds for the real emergency but not using this as a bill to lard up with all kinds of excessive spending that isn't needed for this particular emergency.

With that, I yield back the remainder of my time.

FISA AMENDMENTS ACT REAUTHORIZATION ACT OF 2012—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 5949.

AMENDMENT NO. 3437

Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 3437 offered by the Senator from Vermont.

The Senator from Vermont.

Mr. LEAHY. Mr. President, this is a matter I care a great deal about. I am concerned that we are rushing to rubberstamp a House bill that is going to extend the surveillance authorities of the FISA Amendments Act for another 5 years. My amendment would allow the authorities to continue, but it would give a lot better and more timely oversight.

We passed this—and it was not on a last-minute thing—out of the Senate Judiciary Committee in July. We acted quickly so that we would not be acting in this last-minute manner.

This has no operational impact on the intelligence community, but it does ensure the strongest of oversight. I hope Senators will support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to oppose this amendment and to indicate that the administration opposes the amendment as well.

We have just 4 days to reauthorize this critical intelligence tool before it expires. That is the reason for having the House bill before us today. The House bill is a clean bill. It extends the program to 2017, when it would sunset and would need another reauthorization. I believe we must pass the House bill now. I believe 2017 is the appropriate date.

I am very worried that if we do anything else, if we pass any one of these amendments, we will jeopardize the continuation of what is a vital intelligence tool. So regretfully, I oppose the Leahy amendment.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the Leahy amendment.

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. BROWN), the Senator from New York (Mrs. GILLIBRAND), the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), and the Senator from Alaska (Ms. MURKOWSKI).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 52, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—38

Akaka	Franken	Reed
Baucus	Johnson (SD)	Reid
Begich	Klobuchar	Schatz
Bennet	Kohl	Schumer
Bingaman	Leahy	Shaheen
Blumenthal	Lee	Stabenow
Cantwell	Levin	Tester
Cardin	Manchin	Udall (CO)
Carper	Menendez	Udall (NM)
Casey	Merkley	Webb
Conrad	Murray	Whitehouse
Cooms	Nelson (NE)	Wyden
Durbin	Paul	

NAYS—52

Alexander	Grassley	Moran
Ayotte	Hagan	Nelson (FL)
Barrasso	Hatch	Portman
Blunt	Heller	Pryor
Boozman	Hoeven	Risch
Brown (MA)	Hutchison	Roberts
Burr	Isakson	Rockefeller
Chambliss	Johanns	Rubio
Coats	Johnson (WI)	Sessions
Coburn	Kerry	Shelby
Cochran	Kyl	Snowe
Collins	Landrieu	Thune
Corker	Lieberman	Toomey
Cornyn	Lugar	Vitter
Crapo	McCain	Warner
Enzi	McCaskill	Wicker
Feinstein	McConnell	
Graham	Mikulski	

NOT VOTING—10

Boxer	Harkin	Murkowski
Brown (OH)	Inhofe	Sanders
DeMint	Kirk	
Gillibrand	Lautenberg	

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

AMENDMENT NO. 3435

Under the previous order, there will be 2 minutes of debate equally divided prior to the vote in relation to amendment No. 3435, offered by the Senator from Oregon, Mr. MERKLEY.

Mr. REID. Mr. President, we are going to have two more votes tonight. They will both be 10 minutes in duration in addition to the debate time that has already been established. Then we are going to move in a very direct way to complete as much of the debate time as possible on the amendments on the supplemental. It is extremely important that we get this debate completed tonight so we can start voting in the morning. We have already set up that we will have some votes in the morning. We are going to come in probably about 9:30 and start voting. We have a lot to do.

It would really be good if people who have amendments on the supplemental use their debate time tonight. We are going to have no more votes tonight, but tomorrow there will be a limited amount of debate time. Senator MIKULSKI will be here tonight, Senator SCHUMER will be here tonight, and Senator MENENDEZ will be here tonight to help move this, in addition, of course, to the managers of the bill on the other side. We hope people will work hard to get debate out of the way tonight so we can vote tomorrow. We have a lot of votes tomorrow. I am led to believe there are a number of amendments the managers of this bill will pass either by voice or some other quick fashion.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, following up Leader REID's comments, to my colleagues on both sides of the aisle, if you have these amendments, Senator SCHUMER and I would like to know. We will stay here to offer and debate them, as you were accorded under the unanimous consent agreement. If you come up and tell Senator SCHUMER and me now, we can get an order and sequence and tell you when we will call you up. Instead of everybody standing around, we would actually get a regular order and you would know when your amendments are coming up and what order you are coming up so that you could plan your evening. Please see Senator SCHUMER and me, and we will work with you to accomplish this.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, is it time to speak to amendment No. 3435?

The PRESIDING OFFICER. Yes.

Mr. MERKLEY. Mr. President, I rise in support of the Merkley-Lee amendment. I thank him for being lead cosponsor.

I say to my colleagues, this is all about supporting the fourth amendment and opposing secret law. As we all know, in this Nation law consists of both the plain language and the court interpretations of what the plain language means. In the case of the FISA rulings, the public never finds out the second half and therefore doesn't really know when information will be collected, if you will, that is relevant to an investigation. No one ever knows