U.S. House of Representatives, which would grant Federal recognition to six Native American tribes from the Commonwealth of Virginia. That bill is the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, H.R. 1294.

Once the Senate passes that bill and the President signs it into law, these six federally recognized tribes would become eligible for the benefits conferred under the Indian Health Care Improvement Act, which the Senate currently is debating. I hope that the Senate will pass the Indian Health Care Improvement Act this week. Just as importantly, I hope that during this session of Congress, the Senate will pass the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, thereby bestowing Federal benefits to these six tribes that have waited over 15 years for recognition.

The six tribes affected by the Federal Recognition Act are (1) the Chickahominy Tribe; (2) the Chickahominy Indian Tribe—Eastern Division; (3) the Upper Mattaponi Tribe; (4) the Rappahannock Tribe, Inc.; (5) the Monacan Indian Nation; and (6) the Nansemond Indian Tribe.

All six tribes included in the Federal Recognition Act have attempted to gain formal recognition through the Bureau of Indian Affairs, BIA. A lack of resources, coupled with unclear agency guidelines, have contributed to a backlog that currently exists at the BIA. Some applications for recognition can take up to 20 years.

Virginia's history and policies create barriers for Virginia's Native American Tribes to meet the BIA criteria for Federal recognition. Many Western tribes experienced Government neglect during the 20th century, but Virginia's story is different. Virginia's tribes were specifically targeted by unique policies.

Virginia was the first State to pass antimiscegenation laws in 1691, which were not eliminated until 1967.

Virginia's Bureau of Vital Statistics went so far as changing race records on many birth, death and marriage certificates. The elimination of racial identity records had a harmful impact on Virginia's tribes in the late 1990s, when they began seeking Federal recognition.

Moreover, many Virginia counties suffered tremendous loss of their early records during the intense military activity that occurred during the Civil War.

After meeting with leaders of Virginia's Indian tribes and months of thorough investigation of the facts, I concluded that legislative action is needed for recognition of Virginia's tribes. Congressional hearings and reports over the last several Congresses demonstrate the ancestry and status of these tribes. I have come to the conclusion that this recognition is justified based on principles of dignity and fairness. I have spent several months examining this issue in great detail, including the rich history and culture of Virginia's tribes. My staff and I asked a number of tough questions, and great care and deliberation were put into arriving at this conclusion.

Last year, we celebrated the 400th anniversary of Jamestown America's first colony. After 400 years since the founding of Jamestown, these six tribes deserve to join our Nation's other 562 federally recognized tribes.

As I mentioned, the House overwhelming passed the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, with bipartisan support. Virginia Governor Tim Kaine and the Virginia legislature support Federal recognition for these tribes. I look forward to working with my colleagues in the Senate, especially those on the Indian Affairs Committee, to push for passage of the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act.

At a time when we are debating how to effectively promote Indian health care, it is important that we grant these six Virginia tribes the access to these essential Federal health programs.

FISA AMENDMENTS ACT OF 2007

Mr. REID. Madam President, I call for the regular order.

The PRESIDING OFFICER. The clerk will report the pending business by title.

The assistant legislative clerk read as follows:

A bill (S. 2248) to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Select Committee on Intelligence and the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2007'' or the ''FISA Amendments Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SEC. 101. TARGETING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding after title VI the following new title:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''SEC. 701. DEFINITIONS.

''In this title:

''(1) IN GENERAL.—The terms 'agent of a foreign power', 'Attorney General', 'contents', 'electronic surveillance', 'foreign intelligence information', 'foreign power', 'minimization procedures', 'person', 'United States', and 'United States person' shall have the meanings given such terms in section 101.

''(2) ADDITIONAL DEFINITIONS.—

''(A) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(i) the Select Committee on Intelligence of the Senate; and

''(ii) the Permanent Select Committee on Intelligence of the House of Representatives.

''(B) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established by section 103(a).

''(C) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The terms 'Foreign Intelligence Surveillance Court of Review' and 'Court of Review' mean the court established by section 103(b).

''(D) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(i) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(ii) a provider of electronic communications service, as that term is defined in section 2510 of title 18, United States Code;

''(iii) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(iv) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

''(v) an officer, employee, or agent of an entity described in clause (i), (ii), (iii), or (iv).

''(E) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''SEC. 702. PROCEDURES FOR ACQUIRING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

''(a) AUTHORIZATION.—Notwithstanding any other provision of law, including title I, the Attorney General and the Director of National Intelligence may authorize jointly, for periods of up to 1 year, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

''(b) LIMITATIONS.—An acquisition authorized under subsection (a)—

''(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

''(2) may not intentionally target a person reasonably believed to be outside the United States if a significant purpose of such acquisition is to acquire the communications of a specific person reasonably believed to be located in

the United States, except in accordance with title I; and

''(3) shall be conducted in a manner consistent with the fourth amendment to the Constitution of the United States.

''(c) UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES.—

''(1) ACQUISITION INSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—An acquisition authorized under subsection (a) that constitutes electronic surveillance and occurs inside the United States may not intentionally target a United States person reasonably believed to be outside the United States, except in accordance with the procedures under title I.

''(2) ACQUISITION OUTSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—

''(A) IN GENERAL.—An acquisition by an electronic, mechanical, or other surveillance device outside the United States may not intentionally target a United States person reasonably believed to be outside the United States to acquire the contents of a wire or radio communication sent by or intended to be received by that United States person under circumstances in which a person has reasonable expectation of privacy and a warrant would be required for law enforcement purposes if the technique were used inside the United States unless—

''(i) the Foreign Intelligence Surveillance Court has entered an order approving electronic surveillance of that United States person under section 105, or in the case of an emergency situation, electronic surveillance against the target is being conducted in a manner consistent with title I; or

''(ii)(I) the Foreign Intelligence Surveillance Court has entered a order under subparagraph (B) that there is probable cause to believe that the United States person is a foreign power or an agent of a foreign power;

''(II) the Attorney General has established minimization procedures for that acquisition that meet the definition of minimization procedures under section 101(h); and

''(III) the dissemination provisions of the minimization procedures described in subclause (II) have been approved under subparagraph (C).

''(B) PROBABLE CAUSE DETERMINATION; REVIEW.—

''(i) IN GENERAL.—The Attorney General may submit to the Foreign Intelligence Surveillance Court the determination of the Attorney General, together with any supporting affidavits, that a United States person who is outside the United States is a foreign power or an agent of a foreign power.

''(ii) REVIEW.—The Court shall review, any probable cause determination submitted by the Attorney General under this subparagraph. The review under this clause shall be limited to whether, on the basis of the facts submitted by the Attorney General, there is probable cause to believe that the United States person who is outside the United States is a foreign power or an agent of a foreign power.

''(iii) ORDER.—If the Court, after conducting a review under clause (ii), determines that there is probable cause to believe that the United States person is a foreign power or an agent of a foreign power, the court shall issue an order approving the acquisition. An order under this clause shall be effective for 90 days, and may be renewed for additional 90-day periods.

''(iv) NO PROBABLE CAUSE.—If the Court, after conducting a review under clause (ii), determines that there is not probable cause to believe that a United States person is a foreign power or an agent of a foreign power, it shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause to the Foreign Intelligence Surveillance Court of Review.

''(C) REVIEW OF MINIMIZATION PROCEDURES.—

''(i) IN GENERAL.—The Foreign Intelligence Surveillance Court shall review the minimization procedures applicable to dissemination of information obtained through an acquisition authorized under subparagraph (A) to assess whether such procedures meet the definition of minimization procedures under section 101(h) with respect to dissemination.

''(ii) REVIEW.—The Court shall issue an order approving the procedures applicable to dissemination as submitted or as modified to comply with section 101(h).

''(iii) PROCEDURES DO NOT MEET DEFINITION.—If the Court determines that the procedures applicable to dissemination of information obtained through an acquisition authorized under subparagraph (A) do not meet the definition of minimization procedures under section 101(h) with respect to dissemination, it shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause to the Foreign Intelligence Surveillance Court of Review.

''(D) EMERGENCY PROCEDURES.—

''(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, the Attorney General may authorize the emergency employment of an acquisition under subparagraph (A) if the Attorney General—

''(I) reasonably determines that—

''(aa) an emergency situation exists with respect to the employment of an acquisition under subparagraph (A) before a determination of probable cause can with due diligence be obtained; and

''(bb) the factual basis for issuance of a determination under subparagraph (B) to approve such an acquisition exists;

''(II) informs a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency acquisition;

''(III) submits a request in accordance with subparagraph (B) to the judge notified under subclause (II) as soon as practicable, but later than 72 hours after the Attorney General authorizes such an acquisition; and

''(IV) requires that minimization procedures meeting the definition of minimization procedures under section 101(h) be followed.

''(ii) TERMINATION.—In the absence of a judicial determination finding probable cause to believe that the United States person that is the subject of an emergency employment of an acquisition under clause (i) is a foreign power or an agent of a foreign power, the emergency employment of an acquisition under clause (i) shall terminate when the information sought is obtained, when the request for a determination is denied, or after the expiration of 72 hours from the time of authorization by the Attorney General, whichever is earliest.

''(iii) USE OF INFORMATION.—If the Court determines that there is not probable cause to believe that a United States is a foreign power or an agent of a foreign power in response to a request for a determination under clause (i)(III), or in any other case where the emergency employment of an acquisition under this subparagraph is terminated and no determination finding probable cause is issued, no information obtained or evidence derived from such acquisition shall be received in 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 no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(3) PROCEDURES.—

''(A) SUBMITTAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—Not later than 30 days after the date of the enactment of the FISA Amendments Act of 2007, the Attorney General shall submit to the Foreign Intelligence Surveillance Court the procedures to be used in determining whether a target reasonably believed to be outside the United States is a United States person.

''(B) REVIEW BY FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall review, the procedures submitted under subparagraph (A), and shall approve those procedures if they are reasonably designed to determine whether a target reasonably believed to be outside the United States is a United States person. If the Court concludes otherwise, the Court shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal such an order to the Foreign Intelligence Surveillance Court of Review.

''(C) USE IN TARGETING.—Any targeting of persons reasonably believed to be located outside the United States shall use the procedures approved by the Foreign Intelligence Surveillance Court under subparagraph (B). Any new or amended procedures may be used with respect to the targeting of persons reasonably believed to be located outside the United States upon approval of the new or amended procedures by the Court, which shall review such procedures under paragraph (B).

''(4) TRANSITION PROCEDURES CONCERNING THE TARGETING OF UNITED STATES PERSONS OVERSEAS.—Any authorization in effect on the date of enactment of the FISA Amendments Act of 2007 under section 2.5 of Executive Order 12333 to intentionally target a United States person reasonably believed to be located outside the United States, to acquire the contents of a wire or radio communication sent by or intended to be received by that United States person, shall remain in effect, and shall constitute a sufficient basis for conducting such an acquisition of a United States person located outside the United States, until that authorization expires or 90 days after the date of enactment of the FISA Amendments Act of 2007, whichever is earlier.

''(d) CONDUCT OF ACQUISITION.—An acquisition authorized under subsection (a) may be conducted only in accordance with—

''(1) a certification made by the Attorney General and the Director of National Intelligence pursuant to subsection (g); and

''(2) the targeting and minimization procedures required pursuant to subsections (e) and (f).

''(e) TARGETING PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt targeting procedures that are reasonably designed to ensure that any acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States, and that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States.

''(2) JUDICIAL REVIEW.—The procedures referred to in paragraph (1) shall be subject to judicial review pursuant to subsection (i).

''(f) MINIMIZATION PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt, consistent with the requirements of section 101(h), minimization procedures for acquisitions authorized under subsection (a).

''(2) JUDICIAL REVIEW.—The minimization procedures required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(g) CERTIFICATION.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Subject to subparagraph (B), prior to the initiation of an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence shall provide, under oath, a written certification, as described in this subsection.

''(B) EXCEPTION.—If the Attorney General and the Director of National Intelligence determine that immediate action by the Government is required and time does not permit the preparation of a certification under this subsection prior to the initiation of an acquisition, the Attorney General and the Director of National Intelligence shall prepare such certification, including such determination, as soon as possible but in no event more than 168 hours after such determination is made.

''(2) REQUIREMENTS.—A certification made under this subsection shall—

''(A) attest that—

''(i) there are reasonable procedures in place for determining that the acquisition authorized under subsection (a) is targeted at persons reasonably believed to be located outside the United States and that such procedures have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(ii) the procedures referred to in clause (i) are consistent with the requirements of the fourth amendment to the Constitution of the United States and do not permit the intentional targeting of any person who is known at the time of acquisition to be located in the United States;

''(iii) the procedures referred to in clause (i) require that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States;

''(iv) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(v) the minimization procedures to be used with respect to such acquisition—

''(I) meet the definition of minimization procedures under section 101(h); and

''(II) have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(vi) the acquisition involves obtaining the foreign intelligence information from or with the assistance of an electronic communication service provider; and

''(vii) the acquisition is limited to communications to which at least 1 party is a specific individual target who is reasonably believed to be located outside of the United States, and a significant purpose of the acquisition of the communications of any target is to obtain foreign intelligence information; and

''(B) be supported, as appropriate, by the affidavit of any appropriate official in the area of national security who is—

''(i) appointed by the President, by and with the consent of the Senate; or

''(ii) the head of any element of the intelligence community.

''(3) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under subsection (a) will be directed or conducted.

''(4) SUBMISSION TO THE COURT.—The Attorney General shall transmit a copy of a certification made under this subsection, and any supporting affidavit, under seal to the Foreign Intelligence Surveillance Court as soon as possible, but in no event more than 5 days after such certification is made. Such certification shall be maintained under security measures adopted by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence.

''(5) REVIEW.—The certification required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(h) DIRECTIVES.—

''(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

''(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target; and

''(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

''(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance pursuant to paragraph (1).

''(3) RELEASE FROM LIABILITY.—Notwithstanding any other law, no cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

''(4) CHALLENGING OF DIRECTIVES.—

''(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider receiving a directive issued pursuant to paragraph (1) may challenge the directive by filing a petition with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign the petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that the directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with the directive. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under this paragraph shall remain in full effect.

''(5) ENFORCEMENT OF DIRECTIVES.—

''(A) ORDER TO COMPEL.—In the case of a failure to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel compliance with the directive with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition shall issue an order requiring the electronic communication service provider to comply with the directive if the judge finds that the directive was issued in accordance with paragraph (1), meets the requirements of this section, and is otherwise lawful. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this paragraph may be punished by the Court as contempt of court.

''(E) PROCESS.—Any process under this paragraph may be served in any judicial district in which the electronic communication service provider may be found.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of the decision issued pursuant to paragraph (4) or (5) not later than 7 days after the issuance of such decision. The Court of Review shall have jurisdiction to consider such a petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(i) JUDICIAL REVIEW.—

''(1) IN GENERAL.—

''(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review any certification required by subsection (d) or targeting and minimization procedures adopted pursuant to subsections (e) and (f).

''(B) SUBMISSION TO THE COURT.—The Attorney General shall submit to the Court any such certification or procedure, or amendment thereto, not later than 5 days after making or amending the certification or adopting or amending the procedures.

''(2) CERTIFICATIONS.—The Court shall review a certification provided under subsection (g) to determine whether the certification contains all the required elements.

''(3) TARGETING PROCEDURES.—The Court shall review the targeting procedures required by subsection (e) to assess whether the procedures are reasonably designed to ensure that the acquisition authorized under subsection (a) is limited to the targeting of persons reasonably believed to be located outside the United States, and are reasonably designed to ensure that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States.

''(4) MINIMIZATION PROCEDURES.—The Court shall review the minimization procedures required by subsection (f) to assess whether such procedures meet the definition of minimization procedures under section 101(h).

''(5) ORDERS.—

''(A) APPROVAL.—If the Court finds that a certification required by subsection (g) contains all of the required elements and that the targeting and minimization procedures required by subsections (e) and (f) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the continued use of the procedures for the acquisition authorized under subsection (a).

''(B) CORRECTION OF DEFICIENCIES.—

''(i) IN GENERAL.—If the Court finds that a certification required by subsection (g) does not contain all of the required elements, or that the procedures required by subsections (e) and (f) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the Court's order—

''(I) correct any deficiency identified by the Court's order not later than 30 days after the date the Court issues the order; or

''(II) cease the acquisition authorized under subsection (a).

''(ii) LIMITATION ON USE OF INFORMATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), no information obtained or evidence derived from an acquisition under clause (i)(I) shall be received in 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 no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(II) EXCEPTION.—If the Government corrects any deficiency identified by the Court's order under clause (i), the Court may permit the use or disclosure of information acquired before the date of the correction pursuant to such minimization procedures as the Court shall establish for purposes of this clause.

''(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of its orders under this subsection, the Court shall provide, simultaneously with the orders, for the record a written statement of its reasons.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government may appeal any order under this section to the Foreign Intelligence Surveillance Court of Review, which shall have jurisdiction to review such order. For any decision affirming, reversing, or modifying an order of the Foreign Intelligence Surveillance Court, the Court of Review shall provide for the record a written statement of its reasons.

''(B) STAY PENDING APPEAL.—The Government may move for a stay of any order of the Foreign Intelligence Surveillance Court under paragraph (5)(B)(i) pending review by the Court en banc or pending appeal to the Foreign Intelligence Surveillance Court of Review.

''(C) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(7) COMPLIANCE REVIEW.—The Court may review and assess compliance with the minimization procedures submitted to the Court pursuant to subsections (c) and (f) by reviewing the semiannual assessments submitted by the Attorney General and the Director of National Intelligence pursuant to subsection (l)(1) with respect to compliance with minimization procedures. In conducting a review under this paragraph, the Court may, to the extent necessary, require the Government to provide additional information regarding the acquisition, retention, or dissemination of information concerning United States persons during the course of an acquisition authorized under subsection (a).

''(8) REMEDIAL AUTHORITY.—The Foreign Intelligence Surveillance Court shall have authority to fashion remedies as necessary to enforce—

''(A) any order issued under this section; and

''(B) compliance with any such order.

''(j) JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

''(k) MAINTENANCE OF RECORDS.—

''(1) STANDARDS.—A record of a proceeding under this section, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(3) RETENTION OF RECORDS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.

''(l) OVERSIGHT.—

''(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the targeting and minimization procedures required by subsections (c), (e), and (f) and shall submit each such assessment to—

''(A) the Foreign Intelligence Surveillance Court; and

''(B) the congressional intelligence committees.

''(2) AGENCY ASSESSMENT.—The Inspectors General of the Department of Justice and of any element of the intelligence community authorized to acquire foreign intelligence information under subsection (a)—

''(A) are authorized to review the compliance of their agency or element with the targeting and minimization procedures required by subsections (c), (e), and (f);

''(B) with respect to acquisitions authorized under subsection (a), shall review the number of disseminated intelligence reports containing a reference to a United States person identity and the number of United States person identities subsequently disseminated by the element concerned in response to requests for identities that were not referred to by name or title in the original reporting;

''(C) with respect to acquisitions authorized under subsection (a), shall review the number of targets that were later determined to be located in the United States and the number of persons located in the United States whose communications were reviewed; and

''(D) shall provide each such review to—

''(i) the Attorney General;

''(ii) the Director of National Intelligence; and

''(iii) the congressional intelligence committees.

''(3) ANNUAL REVIEW.—

''(A) REQUIREMENT TO CONDUCT.—The head of an element of the intelligence community conducting an acquisition authorized under subsection (a) shall direct the element to conduct an annual review to determine whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition. The annual review shall provide, with respect to such acquisitions authorized under subsection (a)—

''(i) an accounting of the number of disseminated intelligence reports containing a reference to a United States person identity;

''(ii) an accounting of the number of United States person identities subsequently disseminated by that element in response to requests for identities that were not referred to by name or title in the original reporting; and

''(iii) the number of targets that were later determined to be located in the United States and the number of persons located in the United States whose communications were reviewed.

''(B) USE OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall use each such review to evaluate the adequacy of the minimization procedures utilized by such element or the application of the minimization procedures to a particular acquisition authorized under subsection (a).

''(C) PROVISION OF REVIEW TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall provide such review to the Foreign Intelligence Surveillance Court.

''(4) REPORTS TO CONGRESS.—

''(A) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning the implementation of this Act.

''(B) CONTENT.—Each report made under subparagraph (A) shall include—

''(i) any certifications made under subsection (g) during the reporting period;

''(ii) any directives issued under subsection (h) during the reporting period;

''(iii) the judicial review during the reporting period of any such certifications and targeting and minimization procedures utilized with respect to such acquisition, including a copy of any order or pleading in connection with such review that contains a significant legal interpretation of the provisions of this Act;

''(iv) any actions taken to challenge or enforce a directive under paragraphs (4) or (5) of subsections (h);

''(v) any compliance reviews conducted by the Department of Justice or the Office of the Director of National Intelligence of acquisitions authorized under subsection (a);

''(vi) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under subsection (h), including—

''(I) incidents of noncompliance by an element of the intelligence community with procedures adopted pursuant to subsections (c), (e), and (f); and

''(II) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issued a directive under subsection (h);

''(vii) any procedures implementing this section; and

''(viii) any annual review conducted pursuant to paragraph (3).

''SEC. 703. USE OF INFORMATION ACQUIRED UNDER SECTION 702.

''Information acquired from an acquisition conducted under section 702 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106, except for the purposes of subsection (j) of such section.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking the item relating to title VII;

(2) by striking the item relating to section 701; and

(3) by adding at the end the following:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''Sec. 701. Definitions.

''Sec. 702. Procedures for acquiring the communications of certain persons outside the United States.

''Sec. 703. Use of information acquired under section 702.''.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a)(2) and (b) shall cease to have effect on December 31, 2011.

(2) CONTINUING APPLICABILITY.—Section 702(h)(3) of the Foreign Intelligence Surveillance Act of 1978 (as amended by subsection (a)) shall remain in effect with respect to any directive issued pursuant to section 702(h) of that Act (as so amended) during the period such directive was in effect. The use of information acquired by an acquisition conducted under section 702 of that Act (as so amended) shall continue to be governed by the provisions of section 703 of that Act (as so amended).

SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED.

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

''STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED

''SEC. 112. (a) This Act shall be the exclusive means for targeting United States persons for the purpose of acquiring their communications or communications information for foreign intelligence purposes, whether such persons are inside the United States or outside the United States, except in cases where specific statutory authorization exists to obtain communications information without an order under this Act.

''(b) Chapters 119 and 121 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted.

''(c) Subsections (a) and (b) shall apply unless specific statutory authorization for electronic surveillance, other than as an amendment to this Act, is enacted. Such specific statutory authorization shall be the only exception to subsection (a) and (b).''.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 2511(2)(a) of title 18, United States Code, is amended by adding at the end the following:

''(iii) A certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information shall identify the specific provision of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) that provides an exception from providing a court order, and shall certify that the statutory requirements of such provision have been met.''.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.''.

(c) OFFENSE.—Section 109(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809(a)) is amended by striking ''authorized by statute'' each place it appears in such section and inserting ''authorized by this title or chapter 119, 121, or 206 of title 18, United States Code''.

SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT ORDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) INCLUSION OF CERTAIN ORDERS IN SEMI-ANNUAL REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by striking ''(not including orders)'' and inserting '', orders,''.

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following new subsection:

''(c) SUBMISSIONS TO CONGRESS.—The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

''(1) a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act, and any pleadings associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and

''(2) a copy of any such decision, order, or opinion, and the pleadings associated with such decision, order, or opinion, that was issued during the 5-year period ending on the date of the enactment of the FISA Amendments Act of 2007 and not previously submitted in a report under subsection (a).''.

SEC. 104. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (11);

(B) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(C) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation is unavailable—'';

(E) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking ''statement of'' and inserting ''summary statement of'';

(F) in paragraph (8), as redesignated by subparagraph (B) of this paragraph, by adding ''and'' at the end; and

(G) in paragraph (9), as redesignated by subparagraph (B) of this paragraph, by striking ''; and'' and inserting a period;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3) of this subsection, by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

SEC. 105. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (b), by striking ''(a)(3)'' and inserting ''(a)(2)'';

(3) in subsection (c)(1)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (F);

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(6) by amending subsection (e), as redesignated by paragraph (5) of this section, to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

''(C) informs, either personally or through a designee, a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

''(D) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not later than 168 hours after the Attorney General authorizes such surveillance.

''(2) If the Attorney General authorizes the emergency employment of electronic surveillance under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5) In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in 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 no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(6) The Attorney General shall assess compliance with the requirements of paragraph (5).''; and

(7) by adding at the end the following:

''(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, upon the request of the applicant, the judge shall also authorize the installation and use of pen registers and trap and trace devices, and direct the disclosure of the information set forth in section 402(d)(2).''.

SEC. 106. USE OF INFORMATION.

Subsection (i) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (8 U.S.C. 1806) is amended by striking ''radio communication'' and inserting ''communication''.

SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.

(a) APPLICATIONS.—Section 303 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1823) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(C) in paragraph (2), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (3)(C), as redesignated by subparagraph (B) of this paragraph, by inserting ''or is about to be'' before ''owned''; and

(E) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation is unavailable—''; and

(2) in subsection (d)(1)(A), by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

(b) ORDERS.—Section 304 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(2) by amending subsection (e) to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of a physical search if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of a physical search to obtain foreign intelligence information before an order authorizing such physical search can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such physical search exists;

''(C) informs, either personally or through a designee, a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency physical search; and

''(D) makes an application in accordance with this title to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 168 hours after the Attorney General authorizes such physical search.

''(2) If the Attorney General authorizes the emergency employment of a physical search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such physical search, the physical search shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5)(A) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the physical search, no information obtained or evidence derived from such physical search shall be received in 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 no information concerning any United States person acquired from such physical search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(B) The Attorney General shall assess compliance with the requirements of subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 304(a)(4), as redesignated by subsection (b) of this section, by striking ''303(a)(7)(E)'' and inserting ''303(a)(6)(E)''; and

(2) in section 305(k)(2), by striking ''303(a)(7)'' and inserting ''303(a)(6)''.

SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a)(2), by striking ''48 hours'' and inserting ''168 hours''; and

(2) in subsection (c)(1)(C), by striking ''48 hours'' and inserting ''168 hours''.

SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) DESIGNATION OF JUDGES.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by inserting ''at least'' before ''seven of the United States judicial circuits''.

(b) EN BANC AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a) of this section, is further amended—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) The court established under this subsection may, on its own initiative, or upon the request of the Government in any proceeding or a party under section 501(f) or paragraph (4) or (5) of section 702(h), hold a hearing or rehearing, en banc, when ordered by a majority of the judges that constitute such court upon a determination that—

''(i) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

''(ii) the proceeding involves a question of exceptional importance.

''(B) Any authority granted by this Act to a judge of the court established under this subsection may be exercised by the court en banc. When exercising such authority, the court en banc shall comply with any requirements of this Act on the exercise of such authority.

''(C) For purposes of this paragraph, the court en banc shall consist of all judges who constitute the court established under this subsection.''.

(2) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(A) in subsection (a) of section 103, as amended by this subsection, by inserting ''(except when sitting en banc under paragraph (2))'' after ''no judge designated under this subsection''; and

(B) in section 302(c) (50 U.S.C. 1822(c)), by inserting ''(except when sitting en banc)'' after ''except that no judge''.

(c) STAY OR MODIFICATION DURING AN APPEAL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f)(1) A judge of the court established under subsection (a), the court established under subsection (b) or a judge of that court, or the Supreme Court of the United States or a justice of that court, may, in accordance with the rules of their respective courts, enter a stay of an order or an order modifying an order of the court established under subsection (a) or the court established under subsection (b) entered under any title of this Act, while the court established under subsection (a) conducts a rehearing, while an appeal is pending to the court established under subsection (b), or while a petition of certiorari is pending in the Supreme Court of the United States, or during the pendency of any review by that court.

''(2) The authority described in paragraph (1) shall apply to an order entered under any provision of this Act.''.

SEC. 110. REVIEW OF PREVIOUS ACTIONS.

(a) DEFINITIONS.—In this section—

(1) the term ''element of the intelligence community'' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(2) the term ''Terrorist Surveillance Program'' means the intelligence program publicly confirmed by the President in a radio address on December 17, 2005, and any previous, subsequent or related, versions or elements of that program.

(b) AUDIT.—Not later than 180 days after the date of the enactment of this Act, the Inspectors General of the Department of Justice and relevant elements of the intelligence community shall work in conjunction to complete a comprehensive audit of the Terrorist Surveillance Program and any closely related intelligence activities, which shall include acquiring all documents relevant to such programs, including memoranda concerning the legal authority of a program, authorizations of a program, certifications to telecommunications carriers, and court orders.

(c) REPORT.——

(1) IN GENERAL.—Not later than 30 days after the completion of the audit under subsection (b), the Inspectors General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a joint report containing the results of that audit, including all documents acquired pursuant to the conduct of that audit.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(d) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by an Inspector General or any appropriate staff of an Inspector General for a security clearance necessary for the conduct of the audit under subsection (b) is conducted as expeditiously as possible.

(e) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR THE INSPECTORS GENERAL.—The Inspectors General of the Department of Justice and of the relevant elements of the intelligence community are authorized such additional legal and other personnel as may be necessary to carry out the prompt and timely preparation of the audit and report required under this section. Personnel authorized by this subsection shall perform such duties relating to the audit as the relevant Inspector General shall direct. The personnel authorized by this subsection are in addition to any other personnel authorized by law.

SEC. 111. TECHNICAL AND CONFORMING AMENDMENTS.

Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''; and

(2) in paragraph (2), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''.

MODIFICATION OF COMMITTEE REPORTED SUBSTITUTE

Mr. REID. Madam President, I am authorized by the chairman of the Judiciary Committee and, certainly, a majority of the Judiciary Committee to modify the Judiciary substitute amendment, and I send that modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008'' or the ''FISA Amendments Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SEC. 101. TARGETING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding after title VI the following new title:

"TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

"SEC. 701. DEFINITIONS.

''In this title:

''(1) IN GENERAL.—The terms 'agent of a foreign power', 'Attorney General', 'electronic surveillance', 'foreign intelligence information', 'foreign power', 'minimization procedures', 'person', 'United States', and 'United States person' shall have the meanings given such terms in section 101.

''(2) ADDITIONAL DEFINITIONS.—

''(A) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(i) the Select Committee on Intelligence of the Senate; and

''(ii) the Permanent Select Committee on Intelligence of the House of Representatives.

''(B) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established by section 103(a).

''(C) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The terms 'Foreign Intelligence Surveillance Court of Review' and 'Court of Review' mean the court established by section 103(b).

''(D) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(i) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(ii) a provider of electronic communications service, as that term is defined in section 2510 of title 18, United States Code;

''(iii) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(iv) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

''(v) an officer, employee, or agent of an entity described in clause (i), (ii), (iii), or (iv).

''(E) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

"SEC. 702. PROCEDURES FOR ACQUIRING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

''(a) AUTHORIZATION.—Notwithstanding any other provision of law, including title I, the Attorney General and the Director of National Intelligence may authorize jointly, for periods of up to 1 year, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

''(b) LIMITATIONS.—An acquisition authorized under subsection (a)—

''(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

''(2) may not intentionally target a person reasonably believed to be outside the United States if a significant purpose of such acquisition is to acquire the communications of a particular, known person reasonably believed to be located in the United States, except in accordance with title I; and

''(3) shall be conducted in a manner consistent with the fourth amendment to the Constitution of the United States.

''(c) UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES.—

''(1) ACQUISITION INSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—An acquisition authorized under subsection (a) that occurs inside the United States and—

''(A) constitutes electronic surveillance; or

''(B) is an acquisition of stored electronic communications or stored electronic data that otherwise requires a court order under this Act,

may not intentionally target a United States person reasonably believed to be outside the United States, except in accordance with title I or III. For the purposes of an acquisition under this subsection, the term 'agent of a foreign power' as used in those titles shall include a person who is an officer of a foreign power or an employee of a foreign power who is reasonably believed to have access to foreign intelligence information.

''(2) ACQUISITION OUTSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—

''(A) JURISDICTION AND SCOPE.—

''(i) JURISDICTION.—The Foreign Intelligence Surveillance Court shall have jurisdiction to enter an order pursuant to subparagraph (C).

''(ii) SCOPE.—No element of the intelligence community may intentionally target, for the purpose of acquiring foreign intelligence information, a United States person reasonably believed to be located outside the United States under circumstances in which the targeted United States person has a reasonable expectation of privacy and a warrant would be required if the acquisition were conducted inside the United States for law enforcement purposes, unless a judge of the Foreign Intelligence Surveillance Court has entered an order or the Attorney General has authorized an emergency acquisition pursuant to subparagraph (C) or (D) or any other provision of this Act.

''(iii) LIMITATIONS.—

''(I) MOVING OR MISIDENTIFIED TARGETS.—In the event that the targeted United States person is reasonably believed to be in the United States during the pendency of an order issued pursuant to subparagraph (C), such acquisition shall cease until authority is obtained pursuant to this Act or the targeted United States person is again reasonably believed to be located outside the United States during the pendency of an order issued pursuant to subparagraph (C).

''(II) APPLICABILITY.—If the acquisition could be authorized under paragraph (1), the procedures of paragraph (1) shall apply, unless an order or emergency acquisition authority has been obtained under a provision of this Act other than under this paragraph.

''(B) APPLICATION.—Each application for an order under this paragraph shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under subparagraph (A)(i). Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements of such application as set forth in this paragraph and shall include—

''(i) the identity, if known, or a description of the specific United States person who is the target of the acquisition;

''(ii) a statement of the facts and circumstances relied upon to justify the applicant's belief that the target of the acquisition is—

''(I) a United States person reasonably believed to be located outside the United States; and

''(II) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

''(iii) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President by and with the advice and consent of the Senate—

''(I) that the certifying official deems the information sought to be foreign intelligence information;

''(II) that a significant purpose of the acquisition is to obtain foreign intelligence information;

''(III) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

''(IV) that includes a statement of the basis for the certification that the information sought is the type of foreign intelligence information designated;

''(iv) a statement of the proposed minimization procedures consistent with the requirements of section 101(h) or section 301(4);

''(v) a statement of the facts concerning any previous applications that have been made to any judge of the Foreign Intelligence Surveillance Court involving the United States person specified in the application and the action taken on each previous application; and

''(vi) a statement of the period of time for which the acquisition is required to be maintained, provided that such period of time shall not exceed 90 days per application.

''(C) ORDER.—

''(i) FINDINGS.—If, upon an application made pursuant to subparagraph (B), a judge having jurisdiction under subparagraph (A)(i) finds that—

''(I) on the basis of the facts submitted by the applicant there is probable cause to believe that the specified target of the acquisition is—

''(aa) a person reasonably believed to be located outside the United States; and

''(bb) a foreign power, an agent of a foreign power, or an officer or employee of a foreign power;

''(II) the proposed minimization procedures, with respect to their dissemination provisions, meet the definition of minimization procedures under section 101(h) or section 301(4); and

''(III) the certification or certifications required by subparagraph (B) are not clearly erroneous on the basis of the statement made under subparagraph (B)(iii)(IV),

the Court shall issue an ex parte order so stating.

''(ii) PROBABLE CAUSE.—In determining whether or not probable cause exists for purposes of an order under clause (i)(I), a judge having jurisdiction under subparagraph (A)(i) may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target. However, no United States person may be considered a foreign power, agent of a foreign power, or officer or employee of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

''(iii) REVIEW.—

''(I) LIMITATIONS ON REVIEW.—Review by a judge having jurisdiction under subparagraph (A)(i) shall be limited to that required to make the findings described in clause (i). The judge shall not have jurisdiction to review the means by which an acquisition under this paragraph may be conducted.

''(II) REVIEW OF PROBABLE CAUSE.—If the judge determines that the facts submitted under subparagraph (B) are insufficient to establish probable cause to issue an order under this subparagraph, the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subclause pursuant to subparagraph (E).

''(III) REVIEW OF MINIMIZATION PROCEDURES.—If the judge determines that the minimization procedures applicable to dissemination of information obtained through an acquisition under this subparagraph do not meet the definition of minimization procedures under section 101(h) or section 301(4), the judge shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this subclause pursuant to subparagraph (E).

''(iv) DURATION.—An order under this subparagraph shall be effective for a period not to exceed 90 days and such order may be renewed for additional 90-day periods upon submission of renewal applications meeting the requirements of subparagraph (B).

''(D) EMERGENCY AUTHORIZATION.—

''(i) AUTHORITY FOR EMERGENCY AUTHORIZATION.—Notwithstanding any other provision in this subsection, if the Attorney General reasonably determines that—

''(I) an emergency situation exists with respect to the acquisition of foreign intelligence information for which an order may be obtained under subparagraph (C) before an order under that subsection may, with due diligence, be obtained; and

''(II) the factual basis for issuance of an order under this paragraph exists,

the Attorney General may authorize the emergency acquisition if a judge having jurisdiction under subparagraph (A)(i) is informed by the Attorney General or a designee of the Attorney General at the time of such authorization that the decision has been made to conduct such acquisition and if an application in accordance with this paragraph is made to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 168 hours after the Attorney General authorizes such acquisition.

''(ii) MINIMIZATION PROCEDURES.—If the Attorney General authorizes such emergency acquisition, the Attorney General shall require that the minimization procedures required by this subparagraph be followed.

''(iii) TERMINATION OF EMERGENCY AUTHORIZATION.—In the absence of an order under subparagraph (C), the acquisition shall terminate when the information sought is obtained, if the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(iv) USE OF INFORMATION.—In the event that such application is denied, or in any other case where the acquisition is terminated and no order is issued approving the acquisition, no information obtained or evidence derived from such acquisition, except under circumstances in which the target of the acquisition is determined not to be a United States person during the pendency of the 168-hour emergency acquisition period, shall be received in 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 no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(E) APPEAL.—

''(i) APPEAL TO THE COURT OF REVIEW.—The Government may file an appeal with the Foreign Intelligence Surveillance Court of Review for review of an order issued pursuant to subparagraph (C). The Court of Review shall have jurisdiction to consider such appeal and shall provide a written statement for the record of the reasons for a decision under this subparagraph.

''(ii) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under clause (i). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(F) JOINT APPLICATIONS AND ORDERS.—If an acquisition targeting a United States person under paragraph (1) or this paragraph is proposed to be conducted both inside and outside the United States, a judge having jurisdiction under subparagraph (A) and section 103(a) may issue simultaneously, upon the request of the Government in a joint application complying with the requirements of subparagraph (B) and section 104 or 303, orders authorizing the proposed acquisition under subparagraph (B) and section 105 or 304 as applicable.

''(G) CONCURRENT AUTHORIZATION.—If an order authorizing electronic surveillance or physical search has been obtained under section 105 or 304 and that order is in effect, the Attorney General may authorize, during the pendency of such order and without an order under this paragraph, an acquisition under this paragraph of foreign intelligence information targeting that United States person while such person is reasonably believed to be located outside the United States. Prior to issuing such an authorization, the Attorney General shall submit dissemination provisions of minimization procedures for such an acquisition to a judge having jurisdiction under subparagraph (A) for approval.

''(d) CONDUCT OF ACQUISITION.—An acquisition authorized under subsection (a) may be conducted only in accordance with—

''(1) a certification made by the Attorney General and the Director of National Intelligence pursuant to subsection (g); and

''(2) the targeting and minimization procedures required pursuant to subsections (e) and (f).

''(e) TARGETING PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt targeting procedures that are reasonably designed to ensure that any acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States, and that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States.

''(2) JUDICIAL REVIEW.—The procedures referred to in paragraph (1) shall be subject to judicial review pursuant to subsection (i).

''(f) MINIMIZATION PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt, consistent with the requirements of section 101(h), minimization procedures for acquisitions authorized under subsection (a).

''(2) JUDICIAL REVIEW.—The minimization procedures required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(g) CERTIFICATION.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Subject to subparagraph (B), prior to the initiation of an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence shall provide, under oath, a written certification, as described in this subsection.

''(B) EXCEPTION.—If the Attorney General and the Director of National Intelligence determine that immediate action by the Government is required and time does not permit the preparation of a certification under this subsection prior to the initiation of an acquisition, the Attorney General and the Director of National Intelligence shall prepare such certification, including such determination, as soon as possible but in no event more than 168 hours after such determination is made.

''(2) REQUIREMENTS.—A certification made under this subsection shall—

''(A) attest that—

''(i) there are reasonable procedures in place for determining that the acquisition authorized under subsection (a) is targeted at persons reasonably believed to be located outside the United States and that such procedures have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(ii) the procedures referred to in clause (i) are consistent with the requirements of the fourth amendment to the Constitution of the United States and do not permit the intentional targeting of any person who is known at the time of acquisition to be located in the United States;

''(iii) the procedures referred to in clause (i) require that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States;

''(iv) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(v) the minimization procedures to be used with respect to such acquisition—

''(I) meet the definition of minimization procedures under section 101(h); and

''(II) have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(vi) the acquisition involves obtaining the foreign intelligence information from or with the assistance of an electronic communication service provider; and

''(vii) the acquisition of the contents (as that term is defined in section 2510(8) of title

18, United States Code)) of any communication is limited to communications to which any party is an individual target (which shall not be limited to known or named individuals) who is reasonably believed to be located outside of the United States, and a significant purpose of the acquisition of the communications of the target is to obtain foreign intelligence information; and

''(B) be supported, as appropriate, by the affidavit of any appropriate official in the area of national security who is—

''(i) appointed by the President, by and with the consent of the Senate; or

''(ii) the head of any element of the intelligence community.

''(3) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under subsection (a) will be directed or conducted.

''(4) SUBMISSION TO THE COURT.—The Attorney General shall transmit a copy of a certification made under this subsection, and any supporting affidavit, under seal to the Foreign Intelligence Surveillance Court as soon as possible, but in no event more than 5 days after such certification is made. Such certification shall be maintained under security measures adopted by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence.

''(5) REVIEW.—The certification required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(h) DIRECTIVES.—

''(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

''(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target; and

''(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

''(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance pursuant to paragraph (1).

''(3) RELEASE FROM LIABILITY.—Notwithstanding any other law, no cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

''(4) CHALLENGING OF DIRECTIVES.—

''(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider receiving a directive issued pursuant to paragraph (1) may challenge the directive by filing a petition with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign the petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that the directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with the directive. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under this paragraph shall remain in full effect.

''(5) ENFORCEMENT OF DIRECTIVES.—

''(A) ORDER TO COMPEL.—In the case of a failure to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel compliance with the directive with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition shall issue an order requiring the electronic communication service provider to comply with the directive if the judge finds that the directive was issued in accordance with paragraph (1), meets the requirements of this section, and is otherwise lawful. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this paragraph may be punished by the Court as contempt of court.

''(E) PROCESS.—Any process under this paragraph may be served in any judicial district in which the electronic communication service provider may be found.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of the decision issued pursuant to paragraph (4) or (5) not later than 7 days after the issuance of such decision. The Court of Review shall have jurisdiction to consider such a petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(i) JUDICIAL REVIEW.—

''(1) IN GENERAL.—

''(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review any certification required by subsection (d) or targeting and minimization procedures adopted pursuant to subsections (e) and (f).

''(B) SUBMISSION TO THE COURT.—The Attorney General shall submit to the Court any such certification or procedure, or amendment thereto, not later than 5 days after making or amending the certification or adopting or amending the procedures.

''(2) CERTIFICATIONS.—The Court shall review a certification provided under subsection (g) to determine whether the certification contains all the required elements.

''(3) TARGETING PROCEDURES.—The Court shall review the targeting procedures required by subsection (e) to assess whether the procedures are reasonably designed to ensure that the acquisition authorized under subsection (a) is limited to the targeting of persons reasonably believed to be located outside the United States, and are reasonably designed to ensure that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States.

''(4) MINIMIZATION PROCEDURES.—The Court shall review the minimization procedures required by subsection (f) to assess whether such procedures meet the definition of minimization procedures under section 101(h).

''(5) ORDERS.—

''(A) APPROVAL.—If the Court finds that a certification required by subsection (g) contains all of the required elements and that the targeting and minimization procedures required by subsections (e) and (f) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the continued use of the procedures for the acquisition authorized under subsection (a).

''(B) CORRECTION OF DEFICIENCIES.—

''(i) IN GENERAL.—If the Court finds that a certification required by subsection (g) does not contain all of the required elements, or that the procedures required by subsections (e) and (f) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the Court's order—

''(I) correct any deficiency identified by the Court's order not later than 30 days after the date the Court issues the order; or

''(II) cease the acquisition authorized under subsection (a).

''(ii) LIMITATION ON USE OF INFORMATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), no information obtained or evidence derived from an acquisition under clause (i)(I) concerning any United States person shall be received in 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 no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(II) EXCEPTION.—If the Government corrects any deficiency identified by the Court's order under clause (i), the Court may permit the use or disclosure of information acquired before the date of the correction pursuant to such minimization procedures as the Court shall establish for purposes of this clause.

''(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of its orders under this subsection, the Court shall provide, simultaneously with the orders, for the record a written statement of its reasons.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government may appeal any order under this section to the Foreign Intelligence Surveillance Court of Review, which shall have jurisdiction to review such order. For any decision affirming, reversing, or modifying

an order of the Foreign Intelligence Surveillance Court, the Court of Review shall provide for the record a written statement of its reasons.

''(B) CONTINUATION OF ACQUISITION PENDING REHEARING OR APPEAL.—Any acquisition affected by an order under paragraph (5)(B) may continue—

''(i) during the pendency of any rehearing of the order by the Court en banc; or

''(ii) if the Government appeals an order under this section, until the Court of Review enters an order under subparagraph (C).

''(C) IMPLEMENTATION PENDING APPEAL.—Not later than 30 days after the date on which an appeal of an order under paragraph (5)(B) directing the correction of a deficiency is filed, the Court of Review shall determine, and enter a corresponding order regarding, whether all or any part of the correction order, as issued or modified, shall be implemented during the pendency of the appeal.

''(D) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(7) COMPLIANCE REVIEWS.—During the period that minimization procedures approved under paragraph (5)(A) are in effect, the Court may review and assess compliance with such procedures by reviewing the semiannual assessments submitted by the Attorney General and the Director of National Intelligence pursuant to subsection (l)(1) with respect to compliance with such procedures. In conducting a review under this paragraph, the Court may, to the extent necessary, require the Government to provide additional information regarding the acquisition, retention, or dissemination of information concerning United States persons during the course of an acquisition authorized under subsection (a). The Court may fashion remedies it determines necessary to enforce compliance.

''(j) JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

''(k) MAINTENANCE OF RECORDS.—

''(1) STANDARDS.—A record of a proceeding under this section, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(3) RETENTION OF RECORDS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.

''(l) OVERSIGHT.—

''(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the targeting and minimization procedures required by subsections (c), (e), and (f) and shall submit each such assessment to—

''(A) the Foreign Intelligence Surveillance Court; and

''(B) the congressional intelligence committees.

''(2) AGENCY ASSESSMENT.—The Inspectors General of the Department of Justice and of any element of the intelligence community authorized to acquire foreign intelligence information under subsection (a)—

''(A) are authorized to review the compliance of their agency or element with the targeting and minimization procedures required by subsections (c), (e), and (f);

''(B) with respect to acquisitions authorized under subsection (a), shall review the number of disseminated intelligence reports containing a reference to a United States person identity and the number of United States person identities subsequently disseminated by the element concerned in response to requests for identities that were not referred to by name or title in the original reporting;

''(C) with respect to acquisitions authorized under subsection (a), shall review the number of targets that were later determined to be located in the United States and an estimate of the number of persons reasonably believed to be located in the United States whose communications were reviewed; and

''(D) shall provide each such review to—

''(i) the Attorney General;

''(ii) the Director of National Intelligence; and

''(iii) the congressional intelligence committees.

''(3) ANNUAL REVIEW.—

''(A) REQUIREMENT TO CONDUCT.—The head of an element of the intelligence community conducting an acquisition authorized under subsection (a) shall direct the element to conduct an annual review to determine whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition. The annual review shall provide, with respect to such acquisitions authorized under subsection (a)—

''(i) an accounting of the number of disseminated intelligence reports containing a reference to a United States person identity;

''(ii) an accounting of the number of United States person identities subsequently disseminated by that element in response to requests for identities that were not referred to by name or title in the original reporting; and

''(iii) the number of targets that were later determined to be located in the United States and an estimate of the number of persons reasonably believed to be located in the United States whose communications were reviewed.

''(B) USE OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall use each such review to evaluate the adequacy of the minimization procedures utilized by such element or the application of the minimization procedures to a particular acquisition authorized under subsection (a).

''(C) PROVISION OF REVIEW TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall provide such review to the Foreign Intelligence Surveillance Court.

''(4) REPORTS TO CONGRESS.—

''(A) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning the implementation of this Act.

''(B) CONTENT.—Each report made under subparagraph (A) shall include—

''(i) any certifications made under subsection (g) during the reporting period;

''(ii) any directives issued under subsection (h) during the reporting period;

''(iii) the judicial review during the reporting period of any such certifications and targeting and minimization procedures utilized with respect to such acquisition, including a copy of any order or pleading in connection with such review that contains a significant legal interpretation of the provisions of this Act;

''(iv) any actions taken to challenge or enforce a directive under paragraphs (4) or (5) of subsections (h);

''(v) any compliance reviews conducted by the Department of Justice or the Office of the Director of National Intelligence of acquisitions authorized under subsection (a);

''(vi) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under subsection (h), including—

''(I) incidents of noncompliance by an element of the intelligence community with procedures adopted pursuant to subsections (c), (e), and (f); and

''(II) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issued a directive under subsection (h);

''(vii) any procedures implementing this section; and

''(viii) any annual review conducted pursuant to paragraph (3).

''SEC. 703. USE OF INFORMATION ACQUIRED UNDER SECTION 702.

''Information acquired from an acquisition conducted under section 702 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106, except for the purposes of subsection (j) of such section.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking the item relating to title VII;

(2) by striking the item relating to section 701; and

(3) by adding at the end the following:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''Sec. 701. Definitions.

''Sec. 702. Procedures for acquiring the communications of certain persons outside the United States.

''Sec. 703. Use of information acquired under section 702.''.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a)(2) and (b) shall cease to have effect on December 31, 2011.

(2) CONTINUING APPLICABILITY.—Section 702(h)(3) of the Foreign Intelligence Surveillance Act of 1978 (as amended by subsection (a)) shall remain in effect with respect to any directive issued pursuant to section 702(h) of that Act (as so amended) during the period such directive was in effect. The use of information acquired by an acquisition conducted under section 702 of that Act (as so amended) shall continue to be governed by the provisions of section 703 of that Act (as so amended).

SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED.

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

''STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED

''SEC. 112. (a) Except as provided in subsection (b), the procedures of chapters 119, 121 and 206 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted.

''(b) Only an express statutory authorization for electronic surveillance or the interception of domestic, wire, oral, or electronic communications, other than as an amendment to this Act or chapters 119, 121, or 206 of title 18, United States Code, shall constitute an additional exclusive means for the purpose of subsection (a).''.

(b) OFFENSE.—Section 109 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809) is amended—

(1) in subsection (a), by striking ''authorized by statute'' each place it appears in such section and inserting ''authorized by this Act, chapter 119, 121, or 206 of title 18, United States Code, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 112.''; and

(2) by adding at the end the following:

''(e) DEFINITION.—For the purpose of this section, the term 'electronic surveillance' means electronic surveillance as defined in section 101(f) of this Act.''.

(c) CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—Section 2511(2)(a) of title 18, United States Code, is amended by adding at the end the following:

''(iii) If a certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information is based on statutory authority, the certification shall identify the specific statutory provision, and shall certify that the statutory requirements have been met.''.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.''.

SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT ORDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) INCLUSION OF CERTAIN ORDERS IN SEMI-ANNUAL REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by striking ''(not including orders)'' and inserting '', orders,''.

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following new subsection:

''(c) SUBMISSIONS TO CONGRESS.—The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

''(1) a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act, and any pleadings associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and

''(2) a copy of any such decision, order, or opinion, and the pleadings associated with such decision, order, or opinion, that was issued during the 5-year period ending on the date of the enactment of the FISA Amendments Act of 2008 and not previously submitted in a report under subsection (a).''.

SEC. 104. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (11);

(B) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(C) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation is unavailable—'';

(E) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking ''statement of'' and inserting ''summary statement of'';

(F) in paragraph (8), as redesignated by subparagraph (B) of this paragraph, by adding ''and'' at the end; and

(G) in paragraph (9), as redesignated by subparagraph (B) of this paragraph, by striking ''; and'' and inserting a period;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3) of this subsection, by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

SEC. 105. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (b), by striking ''(a)(3)'' and inserting ''(a)(2)'';

(3) in subsection (c)(1)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (F);

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(6) by amending subsection (e), as redesignated by paragraph (5) of this section, to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

''(C) informs, either personally or through a designee, a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

''(D) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not later than 168 hours after the Attorney General authorizes such surveillance.

''(2) If the Attorney General authorizes the emergency employment of electronic surveillance under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5) In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in 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 no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(6) The Attorney General shall assess compliance with the requirements of paragraph (5).''; and

(7) by adding at the end the following:

''(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, upon the request of the applicant, the judge shall also authorize the installation and use of pen registers and trap and trace devices, and direct the disclosure of the information set forth in section 402(d)(2).''.

SEC. 106. USE OF INFORMATION.

Subsection (i) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (8 U.S.C. 1806) is amended by striking ''radio communication'' and inserting ''communication''.

SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.

(a) APPLICATIONS.—Section 303 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1823) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(C) in paragraph (2), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (3)(C), as redesignated by subparagraph (B) of this paragraph, by inserting ''or is about to be'' before ''owned''; and

(E) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director

of the Federal Bureau of Investigation is unavailable—''; and

(2) in subsection (d)(1)(A), by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

(b) ORDERS.—Section 304 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(2) by amending subsection (e) to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of a physical search if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of a physical search to obtain foreign intelligence information before an order authorizing such physical search can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such physical search exists;

''(C) informs, either personally or through a designee, a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency physical search; and

''(D) makes an application in accordance with this title to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 168 hours after the Attorney General authorizes such physical search.

''(2) If the Attorney General authorizes the emergency employment of a physical search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such physical search, the physical search shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5)(A) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the physical search, no information obtained or evidence derived from such physical search shall be received in 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 no information concerning any United States person acquired from such physical search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(B) The Attorney General shall assess compliance with the requirements of subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 304(a)(4), as redesignated by subsection (b) of this section, by striking ''303(a)(7)(E)'' and inserting ''303(a)(6)(E)''; and

(2) in section 305(k)(2), by striking ''303(a)(7)'' and inserting ''303(a)(6)''.

SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a)(2), by striking ''48 hours'' and inserting ''168 hours''; and

(2) in subsection (c)(1)(C), by striking ''48 hours'' and inserting ''168 hours''.

SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) DESIGNATION OF JUDGES.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by inserting ''at least'' before ''seven of the United States judicial circuits''.

(b) EN BANC AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a) of this section, is further amended—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) The court established under this subsection may, on its own initiative, or upon the request of the Government in any proceeding or a party under section 501(f) or paragraph (4) or (5) of section 702(h), hold a hearing or rehearing, en banc, when ordered by a majority of the judges that constitute such court upon a determination that—

''(i) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

''(ii) the proceeding involves a question of exceptional importance.

''(B) Any authority granted by this Act to a judge of the court established under this subsection may be exercised by the court en banc. When exercising such authority, the court en banc shall comply with any requirements of this Act on the exercise of such authority.

''(C) For purposes of this paragraph, the court en banc shall consist of all judges who constitute the court established under this subsection.''.

(2) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(A) in subsection (a) of section 103, as amended by this subsection, by inserting ''(except when sitting en banc under paragraph (2))'' after ''no judge designated under this subsection''; and

(B) in section 302(c) (50 U.S.C. 1822(c)), by inserting ''(except when sitting en banc)'' after ''except that no judge''.

(c) STAY OR MODIFICATION DURING AN APPEAL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f)(1) A judge of the court established under subsection (a), the court established under subsection (b) or a judge of that court, or the Supreme Court of the United States or a justice of that court, may, in accordance with the rules of their respective courts, enter a stay of an order or an order modifying an order of the court established under subsection (a) or the court established under subsection (b) entered under any title of this Act, while the court established under subsection (a) conducts a rehearing, while an appeal is pending to the court established under subsection (b), or while a petition of certiorari is pending in the Supreme Court of the United States, or during the pendency of any review by that court.

''(2) The authority described in paragraph (1) shall apply to an order entered under any provision of this Act.''.

SEC. 110. REVIEW OF PREVIOUS ACTIONS.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) TERRORIST SURVEILLANCE PROGRAM AND PROGRAM.—The terms ''Terrorist Surveillance Program'' and ''Program'' mean the intelligence activity involving communications that was authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007.

(b) REVIEWS.—

(1) REQUIREMENT TO CONDUCT.—The Inspectors General of the Office of the Director of National Intelligence, the Department of Justice, the National Security Agency, and any other element of the intelligence community that participated in the Terrorist Surveillance Program shall work in conjunction to complete a comprehensive review of, with respect to the oversight authority and responsibility of each such Inspector General—

(A) all of the facts necessary to describe the establishment, implementation, product, and use of the product of the Program;

(B) the procedures and substance of, and access to, the legal reviews of the Program;

(C) communications with, and participation of, individuals and entities in the private sector related to the Program;

(D) interaction with the Foreign Intelligence Surveillance Court and transition to court orders related to the Program; and

(E) any other matters identified by such an Inspector General that would enable that Inspector General to report a complete description of the Program, with respect to such element.

(2) COOPERATION.—Each Inspector General required to conduct a review under paragraph (1) shall—

(A) work in conjunction, to the extent possible, with any other Inspector General required to conduct such a review; and

(B) utilize to the extent practicable, and not unnecessarily duplicate or delay, such reviews or audits that have been completed or are being undertaken by such an Inspector General or by any other office of the Executive Branch related to the Program.

(c) REPORTS.—

(1) PRELIMINARY REPORTS.—Not later than 60 days after the date of the enactment of this Act, the Inspectors General of the Office of the Director of National Intelligence and the Department of Justice, in conjunction with any other Inspector General required to conduct a review under subsection (b)(1), shall submit to the appropriate committees of Congress an interim report that describes the planned scope of such review.

(2) FINAL REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspectors General required to conduct such a review shall submit to the appropriate committees of Congress, to the extent practicable, a comprehensive report on such reviews that includes any recommendations of such Inspectors General within the oversight authority and responsibility of such Inspector General with respect to the reviews.

(3) FORM.—A report submitted under this subsection shall be submitted in unclassified form, but may include a classified annex. The unclassified report shall not disclose the name or identity of any individual or entity

of the private sector that participated in the Program or with whom there was communication about the Program.

(d) RESOURCES.—

(1) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by an Inspector General or any appropriate staff of an Inspector General for a security clearance necessary for the conduct of the review under subsection (b)(1) is carried out as expeditiously as possible.

(2) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR THE INSPECTORS GENERAL.—An Inspector General required to conduct a review under subsection (b)(1) and submit a report under subsection (c) is authorized to hire such additional legal or other personnel as may be necessary to carry out such review and prepare such report in a prompt and timely manner. Personnel authorized to be hired under this paragraph—

(A) shall perform such duties relating to such a review as the relevant Inspector General shall direct; and

(B) are in addition to any other personnel authorized by law.

SEC. 111. TECHNICAL AND CONFORMING AMENDMENTS.

Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''; and

(2) in paragraph (2), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''.

TITLE II—OTHER PROVISIONS

SEC. 201. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act, any such amendments, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

SEC. 202. EFFECTIVE DATE; REPEAL; TRANSITION PROCEDURES.

(a) IN GENERAL.—Except as provided in subsection (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) REPEAL.—

(1) IN GENERAL.—Except as provided in subsection (c), sections 105A, 105B, and 105C of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a, 1805b, and 1805c) are repealed.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to sections 105A, 105B, and 105C.

(c) TRANSITIONS PROCEDURES.—

(1) PROTECTION FROM LIABILITY.—Notwithstanding subsection (b)(1), subsection (l) of section 105B of the Foreign Intelligence Surveillance Act of 1978 shall remain in effect with respect to any directives issued pursuant to such section 105B for information, facilities, or assistance provided during the period such directive was or is in effect.

(2) ORDERS IN EFFECT.—

(A) ORDERS IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(i) any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 or section 6(b) of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 556) shall remain in effect until the date of expiration of such order; and

(ii) at the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall reauthorize such order if the facts and circumstances continue to justify issuance of such order under the provisions of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

(B) ORDERS IN EFFECT ON DECEMBER 31, 2011.—Any order issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2011, shall continue in effect until the date of the expiration of such order. Any such order shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended.

(3) AUTHORIZATIONS AND DIRECTIVES IN EFFECT.—

(A) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978, any authorization or directive in effect on the date of the enactment of this Act issued pursuant to the Protect America Act of 2007, or any amendment made by that Act, shall remain in effect until the date of expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Protect America Act of 2007 (121 Stat. 552), and the amendment made by that Act, and, except as provided in paragraph (4) of this subsection, any acquisition pursuant to such authorization or directive shall be deemed not to constitute electronic surveillance (as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)), as construed in accordance with section 105A of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a)).

(B) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DECEMBER 31, 2011.—Any authorization or directive issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2011, shall continue in effect until the date of the expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended.

(4) USE OF INFORMATION ACQUIRED UNDER PROTECT AMERICA ACT.—Information acquired from an acquisition conducted under the Protect America Act of 2007, and the amendments made by that Act, shall be deemed to be information acquired from an electronic surveillance pursuant to title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for purposes of section 106 of that Act (50 U.S.C. 1806), except for purposes of subsection (j) of such section.

(5) NEW ORDERS.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(A) the government may file an application for an order under the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act; and

(B) the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall enter an order granting such an application if the application meets the requirements of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

(6) EXTANT AUTHORIZATIONS.—At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act.

(7) APPLICABLE PROVISIONS.—Any surveillance conducted pursuant to an order entered pursuant to this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

Mr. REID. Madam President, we have conferred with our colleagues on the other side of the aisle. Senator BOND is aware of this new amendment. He has not had time to study the amendment. He has been busy all day, as have all my Republican colleagues at their retreat. But he will have time to work on this tonight. His staff is working on it. We hope tomorrow to have a couple hours of debate, and then it is my understanding there could be and likely will be a motion to table this amendment.

I want to make sure Senators have adequate time to debate this amendment tomorrow. This is, if not the key amendment, one of the key amendments to this legislation, and we want to make sure everyone has adequate time. We are going to come in early in the morning and start this matter as quickly as we can. So I am not going to ask consent tonight as to how much time will be spent on it, but this will be the matter we take up tomorrow.

I have spoken to Senator WHITEHOUSE, who is a member not only of the Judiciary Committee but also the Intelligence Committee. He has a very important amendment he wishes to offer. It is a bipartisan amendment he has worked on for a significant period of time, and we look forward to this amendment.

Hopefully, we can work our way through some of these contentious amendments tomorrow. It is something we need to do, and we are going to work as hard as we can. There are strong feelings on each side. Everyone has worked in good faith. I especially appreciate the cooperation of Senator LEAHY and Senator ROCKEFELLER. They have not agreed on everything, but they have agreed on a lot, and they have worked in a very professional manner in working our way to the point where we now are.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Madam President, there will be no more votes tonight. We have a number of Senators who wish to speak. We understand Senator BOND will be here, Senator ROCKEFELLER will be here, Senator DODD will be here. That is good. They are going to be

speaking about the legislation that is now before this body.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CARDIN. Madam President, I take this time to speak in favor of the Leahy substitute amendment to the FISA legislation. I start by thanking Senator ROCKEFELLER and Senator BOND, Senator LEAHY and Senator SPECTER for their extraordinary work on this most difficult subject. This is not an easy subject. We are dealing with a technology that has changed and the need of our country to get information through our intelligence community, which is important for our national security, and protecting the constitutional and civil rights of the people of our Nation.

The Leahy substitute is a bill that was carefully worked and drafted within the Judiciary Committee. The Intelligence Committee came up with their legislation. We passed it rather quickly before the recess. The Judiciary Committee spent a lot of time looking at the substance of how we could make sure we got the language right, to make sure the intelligence community has the information they need, and that we do protect the rights of the people of our own country. The Leahy substitute does that, with the right balance.

I start by saying that I have been to NSA on many occasions. It is located in the State of Maryland. The dedicated men and women who work there work very hard to protect the interests of our Nation. They do it with a great deal of dedication and sensitivity to the type of information they obtain and how important it is to our country, but it must be done in the right way. The need for the FISA legislation is so we can continue to get information from non-Americans that is important for our national security. Much of this information is obtained from what we call foreign to foreign, where we have communications between an American and a non-American in a country outside of the United States, but because of technology it falls within the definition of the FISA statute. We need to clarify that in a way that will allow the intelligence community to get that information foreign to foreign, information that is important for the security of our country. The Leahy substitute recognizes the change in technology and the need for this information but does it in a way that protects the constitutional rights of the citizens of our own country and the civil rights of Americans.

Where an American is a target, that person should have certain rights. The Leahy substitute protects Americans who are targets of intelligence gathering when they are outside of the United States. When they are inside the United States, there has never been a question that you need to get certain warrants and certain information. Well, this legislation also makes it clear that where an American is a target outside of the United States, that individual will have proper protection. But the legislation goes further and says that in the course of obtaining information, you may get incidental information about an American who was not the target of the investigation, but the American comes up in the communication that has been gathered. We have certain minimization rules to protect the rights of Americans who are incidental to the information being gathered by the intelligence community. The Leahy substitute protects Americans through strengthening the minimization rules.

The Leahy substitute protects the process by involving the courts. The FISA courts are involved in making sure that the right procedures are used in gathering information so that Americans are protected.

The Leahy substitute contains a provision offered by Senator FEINSTEIN to make it clear that the gathering of information under the FISA statute is the exclusive way in which the intelligence community can get information of foreign-to-foreign communications or communications that involve telecommunications centers located in the United States, but that the FISA statute is the exclusive way to proceed so there will not be confusion in the future as to whether there are extraordinary authorities you can use warrantless types of intercepts without having congressional approval. It is the right balance, as I have indicated before, and I urge my colleagues to support the Judiciary Committee's substitute offered by Senator LEAHY.

It even goes further than that. The Leahy substitute does not contain the retroactive immunity. The Intelligence Committee bill contains retroactive immunity for telecommunications companies. Now, my major problem with that is it will take away the appropriate jurisdiction of our courts to act as a check and balance on potential abuses of our rights of privacy. I must tell my colleagues—and I said this in the Judiciary Committee and I have said it on the floor—that telecommunications companies operating in good faith are entitled to help, entitled to relief. They have serious problems in defending their rights because of the confidential nature of the information they are dealing with, but there are ways to deal with that without compromising the independence of the judicial branch of Government, without compromising in the future the ability of our courts to make sure we protect the rights of our citizens.

If we adopt the Leahy substitute, there are going to be other amendments that will be offered that will deal in a responsible way with the concerns of the telecommunications companies. Senator SPECTER has an amendment that says: Look, if the telecommunications companies are operating in good faith, if they are innocent in all this where they can't defend themselves, then let's let the Government be substituted for the telecommunications company. That protects their interests, without compromising the ability of our courts to make sure that all of our rights have been protected. I think that is a better course than what the Intelligence Committee did. There will be an amendment offered by Senator FEINSTEIN which I am a cosponsor of that says, look, we should at least have the courts—the courts—make a judgment as to whether the telecommunications companies operated in good faith under law. That decision shouldn't be made by the executive branch that asked them for the information. That makes common sense to me and offers us at least some protection to make sure we are moving with court supervision. So the Leahy substitute offers us the advantage of eliminating the retroactive immunity which is extremely controversial, and allows us to consider that in its own right, which I am certain we will have a chance to do by the amendments that have been noted.

In addition, the Leahy substitute contains an amendment I offered in the Judiciary Committee that changes the sunset provisions, the termination of these provisions, from a 6-year sunset to a 4-year sunset. Why is that important? First, it is interesting to point out that the members of the Intelligence Committee and the members of the Judiciary Committee, in fact all of the Members of this body, have said we have gotten a lot of cooperation from the intelligence community, from the administration in carrying out our responsibility as the legislative branch of Government to oversee what the executive branch is doing in this area. There has been tremendous cooperation. Why? Because they know we have to pass a statute to continue this authority. We have gotten access to information that at least initially the administration indicated we would not have access to. Well, we got access to it—some of us did. I am sorry more were not offered the opportunity to take a look at the confidential communications—the classified communications. That type of cooperation is helpful when you have the requirement that Congress has to act.

Four years is preferable to six because it will mean the next administration that will take office in January of next year will have to deal with this issue. If we continue a 6-year sunset, there will be no need for the next two Congresses and the administration ever to have to deal with this authority and to take a look at it to see whether it is operating properly, to see whether technology changes have caused it to need to change the way the law is

drafted. But a 4-year sunset will mean we will have plenty of time for the agency with predictability to establish its practices for gathering intelligence information about foreign subjects, but we will also have an opportunity to review during the next administration whether these provisions need to be modified, whether there is a different way, a more effective way that we can get this information protecting the rights of the people of this Nation.

For all of those reasons, I urge this body to approve the substitute that is being offered by Senator LEAHY. It is the product of the Judiciary Committee. I believe it is a better way for us to collect the information. It gives us the chance to take a look at the immunity issue fresh and to make sure we don't compromise in the future the proper roles of our courts in protecting the privacy of the citizens of our own country. It provides for a much stronger oversight by the legislative branch of Government, and I urge my colleagues to support that amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

THE ECONOMY

Mr. BROWN. Madam President, I appreciate the comments of my colleague from Maryland and his insight. The economic house in our country is not in order. The United States may be entering its first recession since 2001—since the beginning of the Bush Presidency. It is pretty clear in my State of Ohio, from places I visited in January, from Kenton to Celina to Cincinnati to Lancaster, to places all over my State, that people are suffering. Food banks are at their most perilous time in at least 20 years.

In Logan, OH, a small community halfway between Columbus and the center of the State and the Ohio River and the town of Athens, halfway between Hocking County and Logan, OH, is the United Methodist Food Pantry. At 3:30 in the morning on a cold December day just about a month ago, people began to line up to go to this food bank, and by 8 o'clock, when the doors opened, cars were all the way up and down the road. This is a small county. By 1 o'clock in the afternoon, 2,000 people—7 percent of the people in this rural Appalachian county, Hocking County, Logan, OH—had come to this food bank; 2,000 people, 7 percent of the people who live in this county, many having driven 20 or 30 minutes to get there.

Middle-class families in Ohio and throughout our Nation face higher costs for energy and health care and education, amidst stagnant wages and falling home prices. In Lebanon, OH, in Warren County, the United Way director told me 90 percent of people going to food banks to pick up food are employed.

The mayor of Denver told a group of us today—Senator STABENOW and others—that 40 percent of homeless people in greater Denver are employed, they have jobs, but not making enough because of foreclosures or cost of food or transportation, simply not making—making low wages, not making enough to make a go of it.

Our Nation is bleeding jobs. The middle class is shrinking. People are hurting. When it comes to responding to these realities, we have several choices. We can try to buy time, as many of the Republican candidates for President are saying, and leave it at that. The economy is cyclical; it will get better; let's ride it out. No government involvement at all. That is one option.

The second option is we can enact a short-term economic stimulus package where we put money in the pockets of middle-class taxpayers, whether they are paying income tax or Social Security tax, put money in the pockets of middle-class taxpayers, extend unemployment compensation, offer aid for food stamps and food banks, and also offer aid to LIHEAP for seniors who are particularly victimized by this recession.

The third option is we can learn from our mistakes. We certainly need to do the short-term economic stimulus package. That is very important, but that is not enough. We can learn from our mistakes. We can confront the underlying causes of our Nation's economic stability. I want to focus on one of those causes. It is a refusal to acknowledge that U.S. trade policies must evolve as the global marketplace does.

When I first ran for Congress in 1992—the same year as the Presiding Officer was elected from her State of Washington—our trade deficit was $38 billion. Our trade deficit figures for 2007 are estimated at nearly $800 billion, and that is before we count the December numbers. So we know our trade deficit went from $38 billion to, a decade and a half later, nearly $800 billion.

President George Herbert Walker Bush has said that $1 billion in trade deficit or surplus translates into 13,000 jobs. So if you sell a billion dollars more out of the country than you import, that is a net increase of 13,000 jobs. If you export $1 billion less than you export, then that is costing 13,000 jobs. Do the math. We went from a $38 billion trade deficit to an $800 billion trade deficit.

The fact is, these job-killing trade agreements are hemorrhaging jobs out of our country and our manufacturing communities, from small towns such as Tippin, OH, to cities as large as Cleveland, OH, from places like Chillicothe, to places like Columbus. The U.S. trade deficit with China, which has continued to spiral upward, hit $238 billion through November of 2007. In 1992, the year I ran for Congress, our trade deficit with China was slightly over $10 billion. It hit over $238 billion, and that is just through November 2007. As President Bush the first said, $1 billion in trade deficit costs 13,000 jobs. Do the math.

Just with China alone, this is the highest annual imbalance ever recorded with a single country, with any bilateral relationship in world history. The trade deficit we have with China now accounts for 33 percent of the U.S. total trade deficit in goods.

Since 1982, our Nation has accumulated trade deficits of $4.3 trillion. That is money that must be eventually repaid. When you look at $4.3 trillion, think of the first President Bush's formula: a billion-dollar trade deficit costs 13,000 jobs.

Today, Americans are losing jobs for reasons, frankly, that have nothing to do with this recession. They have much to do with our country's narrow, myopic, tunnel-vision trade policies. When we craft trade deals that favor gains for multinational corporations over evenhanded competition for both trading partners, why should we be surprised when U.S. companies are crippled or they move out of the country? In Tippin, OH, where I visited a week and a half ago, workers are losing their pensions, health care, or the company has come in and raided these communities and put people out of work, so there are less dollars for schools, less dollars for police protection, for fire protection, and fewer dollars for the local hardware store, fewer dollars for the local restaurants, all of that.

That is why we need to enforce trade rules meant to prevent anticompetitive practices by countries such as China. We should not be surprised when our manufacturing sector—which is not only crucial to our economy but to national security—falters because of these anticompetitive practices. It is not in our Nation's best interest to rely on other nations for our defense infrastructure, our transportation infrastructure, our industrial infrastructure.

The tragedy is, we in this country do the best research and development in the world. We do the research and development and so often companies take that research and development and make the products in other countries. Then we continue to do research and development, and they continue to take the production of these items and goods and this research and these high-tech products out of our country. The research and development certainly creates jobs, good, high-paying jobs, many in the State of the Presiding Officer and many in mine.

The fact is, we cannot continue to run an economy when we do the research and development in this country and then we farm out the production of those goods that are developed to other countries, to exploit low-wage labor, to exploit weak environmental laws, to exploit worker safety laws, to exploit the consumer products safety net. Look at the toxic toys coming from China and the contaminated toothpaste and dog food, and the unsafe tires coming from countries that don't have a consumer products safety net and the food safety net we have.

We clearly need a stronger manufacturing sector such as we have had in our history. That sector cannot effectively compete against companies subsidized by the Chinese Government, companies that pay slave wages, that too often churn out dangerous toys that end up in our children's bedrooms, and toxic, contaminated food that ends up too often in our families breakfast rooms.

On a level, competitive playing field, U.S. companies thrive. When the cards are stacked against them, they struggle, of course.

In 2007, prior to the onset of the 2008 recession, 217,000 manufacturing jobs across the country were lost. That was last year before this recession seems to have deepened. Madam President, 217,000 jobs were lost in the manufacturing sector last year in places such as Youngstown, Warren, Ravenna, and Lima, all over my State.

The United States now has fewer manufacturing jobs—get this—the United States, now with 300 million people, has fewer manufacturing jobs today than it did in 1950 when we had about 150 million people in our country. Manufacturing jobs bring wealth to our communities. A job that pays $15 an hour in Marion, OH, and pays $14 an hour in Springfield, OH, brings wealth into the community that spends out into other jobs and prosperity for other people in the community.

We have lost more than 3 million manufacturing jobs since President Bush took office in 2001. Many of these jobs have been eliminated because of imports from China or direct offshoring to countries such as China.

Last week, NewPage, a paper manufacturing company based in Miamisburg, OH, near Dayton, announced it was shutting down plants in Wisconsin, Maine, and Chillicothe, OH. Heavily government-subsidized Chinese paper producers account for nearly 50 percent of the world market.

One country, because of subsidies and low wages, unenforced environmental rules, and pretty much nonexistent protection for workers, accounts for 50 percent of the world market. That is not free trade, that is a racket.

China has done little to address the fundamental misalignment of its currency, a practice that continues to take jobs and wealth from our country, and they don't share it with their workers. If they didn't have an oppressive, authoritarian government, it would be a different story. They are taking wealth out of our country, and it means higher profits for outsourcing companies, more money for the Chinese Communist Party, for the People's Liberation Army, but not much for Chinese workers.

When we allow China to manipulate currency, trade isn't free, it is fixed. When we allow China to import dangerous products into our country, we should not be surprised when Americans balk.

It took generations for our Nation to build a solid product safety system. If we don't demand safe imports from China and our other trading partner nations, our investment in U.S. product safety becomes an exercise in futility. Think how it happens. U.S. companies shut down an American toy manufacturer, for instance, and those U.S. companies, after shutting down the manufacturing in the United States, move to China. China is a country with low wages, unenforced environmental and worker safety standards. The U.S. company goes to China because of weak environmental and worker safety standards and low wages. Because they don't enforce those rules, you know what is going to happen. Products made in those countries will be made in bad conditions, and there is likely to be toxic or dangerous toys, and more likely to be contaminated food.

The U.S. companies in China then push their Chinese subcontractors to cut costs because they want more profit. So they are pushing the Chinese subcontractors to cut costs, and then those products that are imported into the United States are even more dangerous. Then the Consumer Products Safety Commission in this country—because of President Bush's decisions, we have weakened the regulatory system, so those products come in and there are not enough inspectors. The laws are weakened, so the dangerous toys and contaminated food too often ends up in our family rooms, bedrooms, and our kitchens.

Some free-trade proponents say workers and consumers should get over it, get used to it; it is globalization and there is nothing you can do about it. That is wrong.

Continuing this course will not only cost the middle class more jobs, it will cost our economy its global leadership. It will foist so much debt on our children and their children that basic economic security, basic retirement security may be reserved for the fortunate few. Certainly not the middle class. And as for the poor, just let them eat cake.

The people in Ohio, in all corners, are swimming upstream against deteriorating economic forces. One important reason for that is that Federal policymakers continue to cling to the fantasy that markets run themselves and police themselves, and as long as the rich are getting richer, wealth will trickle down, jobs will be created, and everybody is better off.

It is time to take the blinders off. To secure our economy for the future, we need to write trade rules that crack down on anticompetitive gaming. In our country, still the most powerful in the world, with the most vigorous economy, we need to write trade rules that crack down on anticompetitive gaming of the system. That is what they have done. We need trade rules that prevent dangerous products from entering our country. We need trade rules that acknowledge that destroying the environment in any country, whether it is China or the United States, is a threat to every country.

We need to take responsibility for the consequences of our inaction when it comes to trade policy. We need to take responsibility for the consequences of mistakes we have made in writing trade policy. We need to change course, and we need to do it now.

I yield the floor.

(Mr. CASEY assumed the Chair.)

RECOGNIZING ROBERT ''SARGENT'' SHRIVER

Mr. REID. Mr. President, I rise today to recognize Robert ''Sargent'' Shriver, a role model, hero, and icon. An activist, attorney, and politician, Sargent Shriver has always led by example, driven by the desire to serve those less fortunate.

Sargent Shriver's political career began in 1960, when he worked for his brother-in-law, Democratic Presidential candidate John F. Kennedy. Passionate about civil rights, Shriver was instrumental in connecting then-Senator Kennedy with Reverend Martin Luther King, Jr. And when the newly elected President established the Peace Corps in 1961, Shriver became the new agency's first director. This organization, which promotes peace and international friendship, embodies Shriver's belief in public service by young people to help the poor and the uneducated abroad and at home. In less than 6 years, Shriver developed volunteer activities in more than 55 countries with more than 14,500 volunteers.

In 1962, Sargent Shriver's wife Eunice Kennedy Shriver began ''Camp Shriver,'' a day camp for young people with physical and intellectual disabilities. ''Camp Shriver'' grew into the Special Olympics, of which Sargent Shriver later became president and chairman of the board. Special Olympics was built on Eunice and Sargent Shriver's shared dedication to expanding opportunities for disabled persons, and today brings athletic competition to 2.5 people in 165 countries.

Shriver was presented with the Franklin D. Roosevelt Freedom from Want Award in 1993, a prestigious award that acknowledges a lifetime commitment to securing the basic needs of others. On August 8, 1994, President Bill Clinton recognized Sargent Shriver's lifetime in public service with the Presidential Medal of Freedom, the United States' highest civilian honor.

Additionally, Sargent Shriver served as U.S. Ambassador to France and has directed several organizations including, Head Start, Job Corps, Community Action, Upward Bound, Foster Grandparents, and the National Center on Poverty. Today, Shriver lives in Maryland with his wife.

To tell Shriver's life story to the next generation, Emmy award-winning writer, producer and director Bruce Orenstein created a film entitled ''American Idealist: The Story of Sargent Shriver.'' The program, which