called Doe v. Mukasey fix is needed to address a first amendment problem with the national security letter statutes, and should not have been controversial in any way. Similarly, no one can seriously contend that periodic audits by an inspector general of past operations presented any operational concerns to law enforcement or intelligence gathering. These are vital oversight tools that everyone should have supported.

As it stands now, the extension of the PATRIOT Act provisions does not include a single improvement or reform, and includes not even a word that recognizes the importance of protecting the civil liberties and constitutional privacy rights of Americans. We could have provided the necessary tools to law enforcement and the intelligence community, but could have done so while faithfully performing our duty to protect the constitutional principles and civil liberties upon which all American rely.

Today's Washington Post included an editorial that urged the Senate to extend the PATRIOT Act authorities but also to include ''additional protections meant to ensure that these robust tools are used appropriately.'' The editorial observed that the bill ''would be that much stronger'' if it included the oversight and auditing requirements included in our amendment. That is why Senator PAUL and a dozen other Senators had sponsored the amendment. That is why Senator LEE voted for them this year in the Judiciary Committee. And I would note that Senator KYL and Senator CORNYN supported them in the last Congress.

I ask unanimous consent to have printed in the RECORD a copy of today's editorial from the Washington Post entitled, ''A Chance to Put Protections in the PATRIOT Act.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 25, 2011]

A CHANCE TO PUT PROTECTIONS IN THE PATRIOT ACT

(By the Editorial Board)

Congress appears poised to renew important counterterrorism provisions before they are to expire at the end of the week. That much is welcome. But it is disappointing that lawmakers may extend the Patriot Act measures without additional protections meant to ensure that these robust tools are used appropriately.

The Patriot Act's lone-wolf provision allows law enforcement agents to seek court approval to surveil a non-U.S. citizen believed to be involved in terrorism but who may not have been identified as a member of a foreign group. A second measure allows the government to use roving wiretaps to keep tabs on a suspected foreign agent even if he repeatedly switches cellphone numbers or communication devices, relieving officers of the obligation of going back for court approval every time the suspect changes his means of communication. A third permits the government to obtain a court order to seize ''any tangible item'' deemed relevant to a national security investigation. All three are scheduled to sunset by midnight Thursday.

House and Senate leaders have struck a preliminary agreement for an extension to June 2015 and may vote on the matter as early as Thursday morning. This agreement was not easy to come by. Several Republican senators originally wanted permanent extensions—a proposition rebuffed by most Democrats and civil liberties groups. In the House, conservative Tea Party members, who worried about handing the federal government too much power, earlier this year bucked a move that would have kept the provisions alive until December. Congressional leaders were forced to piece together short-term approvals to keep the tools from lapsing.

The compromise four-year extension is important because it gives law enforcement agencies certainty about the tools' availability. But the bill would be that much stronger if oversight and auditing requirements originally included in the version from Sen. Patrick J. Leahy (D–Vt.) were permitted to remain. Mr. Leahy's proposal, which won bipartisan approval in the Senate Judiciary Committee, required the attorney general and the Justice Department inspector general to provide periodic reports to congressional overseers to ensure that the tools are being used responsibly. Mr. Leahy has crafted an amendment that includes these protections, but it is unlikely that the Senate leadership will allow its consideration.

At this late hour, it is most important to ensure that the provisions do not lapse, which could happen as a result of a dispute between Senate Majority Leader Harry M. Reid (D–Nev.) and Sen. Rand Paul (R–Ky.) over procedural issues. If time runs out for consideration of the Leahy amendment, Mr. Leahy should offer a stand-alone bill later to make the reporting requirements the law.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

SMALL BUSINESS ADDITIONAL TEMPORARY EXTENSION ACT OF 2011

Mr. WYDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1082, introduced earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1082) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. WYDEN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1082) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1082

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Additional Temporary Extension Act of 2011''.

SEC. 2. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.

(a) IN GENERAL.—Section 1 of the Act entitled ''An Act to extend temporarily certain authorities of the Small Business Administration'', approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), as most recently amended by section 1 of Public Law 112–1 (125 Stat. 3), is amended—

(1) by striking ''Any'' and inserting ''Except as provided in section 3 of the Small Business Additional Temporary Extension Act of 2011, any''; and

(2) by striking ''May 31, 2011'' each place it appears and inserting ''July 31, 2011''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on May 30, 2011.

SEC. 3. EXTENSION OF SBIR AND STTR TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended—

(1) by striking ''TERMINATION.—'' and all that follows through ''the authorization'' and inserting ''TERMINATION.—The authorization'';

(2) by striking ''2008'' and inserting ''2011''; and

(3) by striking paragraph (2).

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended—

(1) by striking ''IN GENERAL.—'' and all that follows through ''with respect'' and inserting ''IN GENERAL.—With respect'';

(2) by striking ''2009'' and inserting ''2011''; and

(3) by striking clause (ii).

(c) COMMERCIALIZATION PILOT PROGRAM.—Section 9(y)(6) of the Small Business Act (15 U.S.C. 638(y)(6)) is amended by striking ''2010'' and inserting ''2011''.

SEC. 4. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

''(s) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.''.

SMALL BUSINESS ADDITIONAL TEMPORARY EXTENSION ACT OF 2011—Continued

Mr. WYDEN. Mr. President, I ask unanimous consent that Senator SESSIONS be recognized to speak for up to 20 minutes for debate only.

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

The Senator from Alabama.

THE BUDGET

Mr. SESSIONS. Mr. President, we had an unfortunate series of votes last night, in my opinion, because it was all arranged by our leadership in the Senate to have a series of votes to do nothing. That is unfortunate because the United States of America, and the Senate are proceeding with an idea that they do not have to have a budget. In fact, the majority leader, Senator

REID, said it would be foolish to pass a budget. And as one of the staffers said, on background: Well, if we pass a budget, we will have to tell people how much we are going to raise their taxes and talk about spending reductions, and that will not be popular.

What did they do? One of the most incredible things I have ever seen in the Senate. Did they express regret that they could not pass a budget, that they would not state for the American people a vision for spending and the financial future of America? No. What did they do? They have the majority in the Senate. They called up the budget passed by the House of Representatives, which is a really historic budget, an honest budget that deals fairly and objectively with the challenges we are facing, reduces spending, actually was able to reduce some taxes, and proposed, a decade out, that the Congress confront Medicare because it is going broke. So what did they do? They called up that budget. Did they call it up to amend it? Did they call it up to offer us a chance to debate it and offer amendments and fix anything anybody did not like about it? No. That was not what was done. They brought it up only with the most limited debate before all four votes. They stacked all four votes on four different budgets and projections and just voted them down. They voted down every budget that was offered.

I have on my desk in my office the President's budget. It is four volumes, hundreds of pages, and it lays out a budget. Every President submits budgets. They have a 500-person Office of Management and Budget staff. Every year, they produce a budget. The law requires them to produce a budget. This is the Code, the United States Code Annotated, and in this is the law that says a President should submit a budget and the date by which he should do it. It says the U.S. Senate should commence markup in the Budget Committee by April 1 and the Congress should pass a budget by April 15. Last I heard, April 15 is long since passed.

How do you get a budget out of committee and to the floor of the Senate? What are we supposed to do by April 1? The chairman is supposed to call a markup, and he is supposed to bring up the budget he proposes, offer it to the Budget Committee. It is open for amendment, change, and debate, then it is voted on. A budget should then come out of the committee to the floor of the Senate. It has expedited procedures, but you are allowed to offer amendments, and there is 50 hours of debate—not too much. It does not require the normal 60 votes we have to have for legislation here; it only requires a majority, 50 votes.

That is basically designed, frankly—when the people wrote the Budget Act back in the 1970s—to allow the majority party to be able to pass a budget because there were too many filibusters of budgets and no budgets were getting passed. If you have the majority in the Senate, at least you should be able to produce a budget. So it provides the Democratic majority—the 53 Democratic Senators they have—the opportunity to produce a budget on a partisan basis if it cannot be done on a bipartisan basis. So the normal process is, you work with your colleagues on the other side of the aisle, and if you think a good agreement can be made in a bipartisan fashion, you do so and move a bipartisan budget.

I remember last year when Senator Gregg, our Republican ranking member, talked about his conversation with Senator CONRAD, and he said: He is not letting me see the budget. It is going to be produced the next morning. What that means is, he is going to produce a partisan budget. He does not want our opinion. He is not going to show us what is in his budget until the day of the mark-up.

So this year, we wrote—all the Republican members; I am the ranking member now—we asked the Budget chairman to show us his mark 72 hours before the mark-up because he had not consulted with us and it appeared he was going to produce a partisan budget. Actually, he told me the date the hearing would commence to mark up his budget, but he did decline to give us any advance notice or opportunity to see what was in it.

All I am saying is that the procedure is set up realistically under the Budget Act to allow the majority party to meet its responsibility to pass a budget. They do not need a single Republican vote to pass a budget. I think it is better if you can get a bipartisan agreement. Oftentimes in the past, there have been. But since budgets represent visions for America, oftentimes in recent years they have gone on pretty much a party line but not 100 percent. That is what I would say.

So the President submitted his budget, and it was roundly criticized around the country, and I was a very severe critic of it. So we offered that budget last night. That was one of the four budgets that was offered. We brought it up. It is the only Democratic budget to be produced. I believe the Progressive Caucus produced one in the House, but, of course, it did not pass. It had a lot of tax increases, a lot of spending increases in it. It had no chance whatsoever of being passed. The American people sent us a message last year that they want us to get spending under control. They want us to reduce the size and scope of government. That is what they asked us to do.

So the President's budget came up last night, and, 97 to 0, every Democrat voted against the President's budget. Well, they should because it was unacceptable. I have referred to it as the most irresponsible budget in the history of our country because we are in a deeper financial hole than we have ever been. That is just a fact, and it is not a short-term, little problem; it is a problem that is getting worse in the years to come.

So the American people have come to the conclusion that we need to change the trajectory of debt that we are piling on year after year, month after month, day after day, by the billions—trillions, really.

The President's budget, as scored by the Congressional Budget Office, would produce uncontrolled debt year after year after year, in amounts never before contemplated in our country, making the debt trajectory of our current baseline spending worse, not better.

I was under the impression everybody understood we had to change and get better. I thought, when we came in with this Congress, the debate would be over how much to change in the right direction, how much could we do to reduce the deficits, put us on the right path. Not the President's budget, which made things worse.

According to the Congressional Budget Office, which analyzed his budget and scored it, as we say, the lowest single deficit that budget would produce is $748 billion, the lowest deficit to be produced under his 10-year budget. President Bush was criticized for spending. The highest budget deficit he had was $450 billion. That was the highest President Bush had, and he was criticized for that by many of my Democratic colleagues quite vociferously.

President Obama is now heading to his third trillion dollar budget deficit. This year, it is going to be $1.5 trillion, it looks like three times the size of President Bush's highest deficit. As I said, the lowest deficit they are projecting is $748 billion, and then it starts going back up again. In his 10th year, according to the Congressional Budget Office, the deficit will be $1.2 trillion.

It is an indefensible, irresponsible budget. I am stunned that it was presented here. It has been widely criticized, as well it should be. So it was voted down last night.

If you are going to vote down something, should you not offer something in its place? That is what the fiscal commission that President Obama appointed said. That was their rule. That is what they promoted publicly: If you oppose a budget, you should offer your own. And, in fact, after Congressman RYAN, who served on the fiscal commission with Mr. Bowles and Senator Simpson, the cochairmen, he produced a budget. They gave him great credit. They said it was honest and courageous, and it faced the challenges of America, and it deserved respect, and then said: Anybody who does not agree with that should show what they would do.

So yesterday afternoon, we had the spectacle of Democratic Senators hammering and complaining about the Ryan budget, which in my opinion is the most historic and responsible budget to be produced in decades. No, it is not perfect. It is perfectly acceptable to believe that it ought to be amended.

But it was a historic, honest attempt at dealing with the fiscal challenges we face, and would put us on a financial path to solvency and stability and eliminate the risk we are facing. We probably should do more to reduce spending than he proposed. But it was courageous and bold and honest and without gimmicks. I thought a very impressive document. I looked forward to debating parts of it in our Budget Committee.

So what did we have last night? Yesterday? They just brought it up and every Democratic Member voted it down. And why? Because he had the gumption to actually suggest that for people 55 and younger, we should begin to create a Medicare system that would be solvent and effective and save Medicare, because the trustees have reduced the year again at which it goes insolvent. Senator REID and Senator SCHUMER had cleverly thought up this theory and were explicit about it. Their theory was they would not bring up their own budget. They would not tell the American people how much they wanted to increase their taxes. They would not tell the American people they were going to cut anything, because they might make someone unhappy and be unpopular. They would just call up the Ryan budget and attack Republicans as wanting to kill Medicare, and produce nothing in response. They do not have any plan to fix the situation we are in.

I am disappointed about that. It is unthinkable that we would be recessing and going home for a week without commencing markup hearings in the Budget Committee to produce a budget that we are required by law to produce. It is unthinkable we would do that.

I will be presenting to the majority leader a letter today from Senators on our side of the aisle—large numbers of Senators have signed it, saying, we do not need to go home until we have confronted this problem, and you have shown us how we are going to move forward to meet our statutory responsibility to pass a budget.

I think that is reasonable. That is what we are going to be asking today. I am not going to vote to go home without having met our duty. We call up our young men and women in uniform. We say: You will go to Iraq for a year. They say: Well, I would rather not go. It is in your contract. You signed up. You have to go. It is your duty. And they say, yes, sir, and they go.

Many of them have lost lives and limbs and we ought to remember them this Memorial Day. But Do not we have a duty here? I think we do. I think we have a duty to the United States of America to produce a budget, whether or not it is law. But it is law in the United States Code. That is our duty. We do not need to be going home until we fulfill it, and we have a plan to go forward with it. I want to say this is not a little bitty matter with me. We are not going to have four votes—as we did yesterday—and then the majority leader is going to say, see, it is foolish to produce a budget. I told you we could not produce a budget. We are not going to fool with having a budget this year.

It has been 757 days since the Senate has had a budget, because the majority leader did not bring up a budget last year either. Does anybody have any wonder about why we are going to have a $1.5 trillion deficit this year, why 40 cents of every dollar we spend is borrowed? We spend $3.7 trillion and we take in only $2.2 trillion.

Experts and financial wizards all over the world are telling us, what are you doing in the United States? You are about to threaten the world's most prominent economy. It could have worldwide ramifications. Our debt to GDP compares with Portugal and Spain, almost as high as Greece. It will be 100 percent by September 30 of this year.

And we are going away without a budget again. The people who have asked to be given a leadership responsibility in the Congress cannot even comply with the Budget Act. They refuse to stand before the American people and say what they want to tax, what they want to spend, what they want to cut—because it would not be popular. It would be foolish.

I do not think so. It is not acceptable. You asked to be the leader of this Congress. You asked to be the President of the United States. You have a responsibility to submit a responsible budget, an honest budget, a fact-based budget, a budget the American people have an opportunity to understand, to read and study before we vote. And if the American people find we have cast a bad vote, they can cast a good vote to throw some people out of Congress.

They threw some people out last fall. It does not look like we have gotten the message—Business as usual. We are in denial. We do not have to change. Oh, no, you cannot cut this spending program. What do you mean you cannot cut spending programs? Give me a break. The Alabama Governor, Dr. Bentley, had to announce a 15-percent reduction in discretionary spending. Why? He did not have the money. Is that something we have forgotten in Washington—when you do not have money, you should not spend it?

Well, you say, it is all because of this economy, or something else. Look, under President Obama, nondefense discretionary spending in 2 years went up 24 percent. We are going broke. We are increasing spending on all the government programs. On an average, in the last 2 years that is 12 percent a year. You know, the value of your money will double in 10 years if your interest is 7 percent. At 12 percent, I guess the size of government would increase and double in 6 years.

Great scott. No wonder people are upset with us. We have been spending incredibly recklessly. Also the 12 percent I mentioned—24 percent in 2 years—that does not include the stimulus package, the almost $900 billion stimulus package that was thrown out the door with almost no oversight. It was just designed to spend. And do you remember, it was supposed to stimulate the economy.

We probably have had the slowest ever rebound from a recession. It has been a very shaky recovery. They will say, well, we should have spent more. But Rogoff and Reinhart, the professors, tell us, when your debt gets as high as that of the United States, then you begin to show a decline in growth. One percent of GDP growth is reduced when your debt reaches 90 percent of GDP. We reached that this year, and we will go over 100 percent by September 30.

This is the budget that the President has submitted to us. He has a large staff over there. They maintain it. A large number of them have been there for many years. The President submitted to us a budget. It was rejected yesterday 97 to 0. It confirms the fact that we do not have a legitimate budget before us. The President's budget has been rejected utterly. The Democrats have refused to produce one.

They say: Why don't you have a mark-up and offer your budget? I cannot call a mark-up. The chairman calls the mark-up. The majority leaders confer and tell the chairmen when to call a mark-up. They decided not to call a budget mark-up. We do not have an opportunity to go to the Budget Committee and pass a budget.

We had such tremendous interest, and a lot of the new people who got elected to the Senate last fall wanted to be on the Budget Committee. They traveled their States. They had heard from their people all over their States that they wanted us to control spending. They wanted to be on the committee. It was the committee which had more interest and more people pushing to be on it than any other committee. We finally selected a fabulous group of people to serve on the committee. And now we do not meet. Now we are not even going to mark up a budget. What a disappointment for those new Members coming here with vim and vigor and ready to do something about the future of the Republic.

You know, one of the things that was interesting about the President's budget is how much praise it got from our Democratic colleagues who voted it down last night when it came out. This is what Senator SCHUMER said about it: ''This is a responsible proposal. I believe this approach should have bipartisan support.'' Senator BILL NELSON: ''I personally think the President's budget is a step in the right direction.'' Senator MAX BAUCUS: ''The President's budget strengthens our economy.'' Senator BEN CARDIN: ''President Obama has given us a credible blueprint.'' Senator TOM CARPER: ''The President's budget is an important step forward.'' Senator FRANK LAUTENBERG: ''President Obama's budget presents a careful evaluation of what our Nation needs.''

They all voted no last night. You know, with friends like that, you do not need enemies, as they like to say. But what about Mr. Erskine Bowles, the man President Obama chose to serve as chairman of the debt commission? Mr. Bowles talked about the budget. He was rather stunned actually when it came out. It came out I think on Friday. On Sunday, Mr. Bowles said: ''It comes nowhere close to where they will have to go to avoid a fiscal nightmare.''

Can you imagine? This is the man President Obama chose to head the deficit commission, and he hammered this budget.

He said it is nowhere close, and it is nowhere close to doing what we have to do. So I believe what we went through yesterday was a sham, a mockery, a joke, and had no meaning. It was nothing but politics, nothing but an avoidance of responsibility to help provide leadership.

We all know some serious choices have to be made, and I will close with these thoughts. We are going to need a partnership in the Senate between our parties. There are going to be some tough choices which have to be made. In my view, we simply cannot continue at our rate of spending. It has to be reduced. But we have people in denial, who don't think it has to be reduced. But when your lowest deficit in 10 years is projected to be $740 billion, and this year's will be the highest in the history of the Republic, $1.5 trillion or more—how do we get there?

We are going to have to make some choices. I have saluted the Gang of Six, who have tried. Apparently, they have fallen on hard times and the prospects aren't good for that. Now the Vice President is meeting. There is some excuse, they say, that we don't have to do our business openly and before the public and stand and be accounted for because that would not work. People are afraid to make tough choices and decisions in public.

I believe the American people are not happy with us. I know they are not happy with us. Seventy percent of them believe this country is on the wrong track, and the biggest part of that, surely, is our fiscal management. They know this debt cannot be sustained. So we need to do something. The best way to do it is to follow the regular order, follow the legally constituted method of budget processing. Let's have a Budget Committee meeting, and if the Gang of Six has ideas, let's have them brought up in the Budget Committee and vote on them. If Vice President BIDEN wants to send something over, I am glad to hear it. If the President wants to send his people over to defend this budget that has been rejected 97 to zero, let them do it.

I will tell you what he and his Budget Director, Mr. Lew, said—can you believe it? They said this budget will allow us to live within our means and not spend money we don't have. That is the way they promoted this budget. It was rejected last night. If it caused us to live within our means and allowed us to pay down our debt then I would vote for it. It did not come close to that. Yet the President talked about it all over the country, and his staff ran around saying this budget will allow us to live within our means. That is totally inaccurate, and that is irresponsible. What the President should have done, and what our Democratic leaders have to help us with, is go to the American people and, with clarity, without equivocation, say we cannot continue. We must tell them big changes have to be made, and we are so sorry this country has gotten in the shape we are in. We must say that we are going to make some changes, and we urge you to help us stick together and do it. We must do this to put the country on the right path.

But what do we have? We have Congressman RYAN, in the Republican House, who had the temerity, the courage, the discipline, and the sense of duty sufficient to pass a budget that would actually do what needs to be done. They called it up and attacked it with everything they had, but they will not produce anything of their own.

It cannot be denied that this is a failure of leadership. I believe the process and path we are on now is dangerous; it is not public, it is secret. They tried to produce a secret plan on comprehensive reform of immigration. The American people heard about it, and down it went. They tried to negotiate in secret this health care reform bill. They were able to hold their votes on a straight party-line vote—60 to 40—but the American people were not happy with the process or results and a lot of people who participated in that spectacle didn't come back after this last election.

That is not the path we are hearing from our constituents. Our constituents are saying: You work for us. We want to see you publicly stand and defend the values we believe in. If you don't do so, we are going to hold you accountable. I think that is democracy in America, and that is healthy. I don't think there is anything wrong with it. I respect the American people who are watching Congress and demanding that we change the trajectory we are on.

I believe strongly that we need to do better. I believe strongly that this Congress should have in play and commit before we recess—or not recess—a plan to deal with the financial crisis our Nation faces. When we do that, we can feel like we are fulfilling our duty both in law and morally to the people who have given us the honor of serving in this body.

I yield the floor and 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. KIRK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RESIGNATION OF DOMINIQUE STRAUSS-KAHN

Mr. KIRK. Mr. President, last week, I spoke on the floor regarding the resignation of Dominique Strauss-Kahn, who is managing director of the International Monetary Fund, due to the serious criminal charges he is now facing in New York.

Mr. Strauss-Kahn has since resigned, but it appears he will now receive at least a $250,000 taxpayer-funded severance pay package from the IMF and may be eligible for further undisclosed amounts in annual IMF retirement benefits.

Since the United States is the largest contributor to the IMF, we now face the potential share scenario where the American taxpayer is partly underwriting severance payments and retirement packages to a man who is pending a criminal conviction as a felon.

This is clearly unacceptable, and it is my hope that the U.S. executive director to the IMF, Meg Lundsager, advocates that no future benefits pass to Mr. Dominique Strauss-Kahn, if he is convicted of the crimes with which he is charged.

As you know, the IMF is spearheading efforts to manage a very wide and deep European debt crisis. Despite my reservations about U.S. taxpayer bailouts for Greece, Ireland, and Portugal, the institution does play a very critical role in financial leadership. I think it needs to set an example, especially with regard to its now-disgraced leader.

Mr. Strauss-Kahn has failed to live up to the expectations of his institution and what the American taxpayers support.

STATE BAILOUTS

Mr. President, the U.S. Treasury is scheduled to borrow over $1.4 trillion this year, and we have a scheduled interest payment of over $220 billion. We will pay more in interest this year than we do for the cost of the U.S. Army. I am very concerned about this situation and also an underreported financial situation developing in American States. The situations in my home State of Illinois and the State of California are the most dire. I would regret any attempt by these States to seek a Federal bailout. To defend the full faith and credit of the United States, I think we should move forward with a resolution that I introduced with a number of other Senators, S. Res. 188, that expresses the sense of the Senate that we should have no Federal bailout for the States.

This is an issue that has concerned the Senate once before. In the 1840s, we faced a funding crisis of the States. The Senate wisely advised then-Secretary of the Treasury Daniel Webster to seek or report on any discussions that he might have had that could have led to guaranteeing State debt. It was the Senate's express resolution that prevented Treasury Secretary Webster from bailing out the State's

debt. The crisis at the time was even reflected in Charles Dickens' famous book ''A Christmas Carol,'' in which Scrooge was described as someone who was less than wealthy because he had overinvested in what were called United States sovereigns. In fact, the phrase in the ''Christmas Carol'' is ''not worth a United States sovereign'' because of the spend-thrift policies of many State governments at the time.

The Senate at that time took the correct action to prevent the spend-thrift actions of several States from contaminating and ruining the credit rating of the United States itself.

Our credit rating is already under stress with reports, especially by Standard & Poors, that we may face a loss in the AAA credit rating invented to symbolize the strength of the United States if we don't change the spending course soon. A way to accelerate the loss of a AAA credit rating is to guarantee or somehow bail out spend-thrift States such as Illinois or California.

In Illinois, we have a very courageous State treasurer who just took office and made a clear statement. Treasurer Dan Rutherford has told the leaders of my own State they need to stop borrowing, they need to stop spending. He is seeking no Federal bailout for his State. The State situation is quite dire.

By one estimate, the revenues and pensions of the State of Illinois are the worst funded in America. Less than 40 percent of the pensions, by one estimate, have been funded. With this type of track record, you could see a situation in which California or Illinois, in a crisis, would seek a bailout from the Senate and from the House. I think we should repeat the wise precedent set in the 1840s, the advice we sent to Treasury Secretary Daniel Webster to set a clear marker for our own Treasury Secretary to make sure there is no bailout for the States. To protect our credit rating, I think this action is necessary, especially to reassure the credit rating agencies.

What would happen if we don't? Could we provide temporary benefits to Illinois and California? We could. Could we underwrite their policies of spend-thrift ways? We could. Would we accelerate a loss of the AAA credit rating of the United States? We could. We are already seeing an example of what happens when you drive your national economy off a cliff. Many of us originally hailed from our long-time ancestors who passed from Ireland, and recently the Irish Government finances collapsed as they lost their credit rating. Because interest rates spiked in that country so fast, 53 percent of mortgages in Ireland were foreclosed in a short space of time after the loss of their credit rating.

We need to act to protect the people of the United States from such an economic fate. That is why we need to say no to any State bailouts, why we need to cut spending in Washington, and why we need to make sure that at all costs we defend the credit rating of the United States. It is our sacred duty to make sure that what is befalling the people of Greece and the people of Portugal and the people of Ireland, being misruled by governments that said yes to every special interest spending idea and no to their economic future, does not infect the credit rating of the United States.

That is why this resolution is so needed, and that is why I am so proud to submit it today in the full and complete historic financial tradition of the Senate.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

(The remarks of Mr. INHOFE pertaining to the introduction of S. 1085 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

COTE D'IVOIRE

Mr. INHOFE. Mr. President, I have made four speeches on the floor in the last month about the disaster, the catastrophe that is taking place in a country in west Africa called Cote d'Ivoire. Cote d'Ivoire is a country whose President, the legitimate President, I might add, is Laurent Gbagbo, with his wife Simone. Someone named Alassane Quattara, from the northern part of Cote d'Ivoire, with a rigged election, came in; it was certified. It was all set up before we knew what was going on.

That individual's name is Quattara. His death squads today, this very moment as we speak, are roaming the streets of Abidjan in Cote d'Ivoire. He is murdering and he is raping. Right now they have in captivity Laurent Gbagbo, the legitimate President of Cote d'Ivoire. I think they are in the process of perhaps killing him right now. We don't know that. The State Department does not know it. No one knows it.

We had a hearing. The State Department was totally without compassion or concern over what is happening in the streets of Abidjan. We saw, we witnessed on video, the helicopters coming through and destroying that city. We have friends there right now who tell us that even today the death squads of Alassane Quattara are roaming the streets murdering people. No one can say within 10,000 people how many people they murdered.

My concern is it is too late to do anything about that. They rigged the election. I documented it. I sent the documentation to the State Department. They paid no attention to it. France was behind the whole thing. France wants to have as much control as they can of west Africa. They conned the United Nations into it and our State Department went along with it.

What is happening right now is so inhumane. I wish I had the pictures I showed before. The beautiful First Lady, Simone Gbagbo, is a beautiful lady, and they took her into captivity, pulled her hair out by the roots, and ran through the streets of Abidjan, holding up her hair in their hands. They are murdering everyone who is a friend of that administration.

Well, I have one plea right now. There are a lot of options on what they can do. They can murder the President and First Lady—and they are considering that now. They are trying to consider some way to make it look like suicide. I don't know what they are doing. The State Department doesn't know what they are doing. Unfortunately, the State Department doesn't even care what they are doing.

One of the options would be to allow the President and the First Lady and some who are close to go to another country in Sub-Saharan Africa and be able to stay in that country. We have already located host countries to allow that to take place.

So I am making an appeal right now. I can't get the Secretary of State to talk to me about it. I can't get anyone else but just a handful of people, but we need to do something and do something now—today. If we wait until after this recess, I would almost say their blood will be on the hands of the State Department because we can do something about it now. All we have to do is encourage the new, illegitimately elected President of Cote d'Ivoire—Alassane Ouattara—and his administration to give an opportunity for another state to host these two individuals. Quite frankly, I think that would be a very smart thing politically for him to do because with the other two options, we all know what happens. We know what martyrs are, and that is what would happen.

So this is, I guess, a final appeal to anyone who is sensitive to the torturing, raping, and murdering that is going on today to join me in encouraging the State Department, the United Nations, France, and Alassane Ouattara to turn over President and Mrs. Gbagbo to a host country for their asylum.

With that, I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Florida.

OIL SPECULATION

Mr. NELSON of Florida. Madam President, we have all heard the phrase ''drill, baby, drill.'' Well, it is interesting that the pro-oil company folks think that all of our answers have to do with drilling because, lo and behold, we have actually increased our domestic production. Let me quote from a Reuters story from May 25:

> Crude oil production, especially in the deep waters of the Gulf of Mexico, increased by 334,000 barrels per day between 2005 and 2010, which also cut into foreign oil purchases.

As a matter of fact, the article goes on to say:

Imports of crude and petroleum products accounted for 49.3 percent of the U.S. oil demand last year, down from the high of 60.3 percent in 2005. It also marked the first time since 1997 that America's foreign oil addiction fell under the 50 percent threshold.

Now, that is worth noting. That is really something because the trend is reversing. Maybe it is that we are getting more energy conscious. Maybe it is that we are expending less gasoline in our vehicles because of the higher miles-per-gallon standards. Maybe we are remembering to turn off the lights when we leave the room. Maybe we are being a lot more sensitive to how vulnerable we are because we depend—as we have in the past—on upwards of 60 to 70 percent of our daily consumption from foreign shores, places such as Nigeria and the Persian Gulf and Venezuela.

Now, I have just named three very unstable parts of the world that could, at any moment, cut off that production. So maybe America is finally waking up to the fact that, lo and behold, we have to be concerned about our energy sources and not depend so much on foreign production.

The mantra ''drill, baby, drill'' implies that if we just continue to drill—in places where we can drill domestically—that is going to solve our problem. But that ignores the fact that it takes about 10 years to take an oilfield and get it into production. So that doesn't solve our problem now as we are facing these high gas prices. That is what I want to talk about, the high gas prices.

We ought to drill where we should. A lot of people do not know that of the 37 million acres that are leased in the Gulf of Mexico only 7 million are drilled. There are 37 million acres leased in the Gulf of Mexico, but only 7 million of those 37 million acres are drilled. So let's do drill, baby, drill. Let's drill on all those leases, those 30 million acres in the gulf and elsewhere that are existing leases and that haven't been drilled.

But it is not the world oil market and the U.S. consumption that is causing these gas prices to go up. There are other factors, and I want to talk about that as well. It is true there are new demands on oil consumption from burgeoning countries such as China and India, and that causes more oil to be consumed from the world marketplace. But remember what I just cited; that the United States is lowering its consumption of imported oil. So that is clearly not a factor affecting the price of oil worldwide or the price at the pump we pay for the refined gasoline.

No, there is another reason. That reason happens to be the speculators who are out there running up the price on commodity exchanges for oil futures contracts. Those prices run up until they are ready to dump them, and then suddenly they go down.

I want to call the attention of the Senate to a New York Times story from May 24—just a couple of days ago—entitled ''U.S. Suit Sees Manipulation of Oil Trades.'' Let me quote from the article.

The suit says that in early 2008 they tried to hoard nearly two-thirds of the available supply of a crucial American market for crude oil, then abruptly dumped it and improperly pocketed $50 million.

So the Federal commodities regulators filed a civil lawsuit against two obscure traders in Australia and California and three American and international firms. This was in the context of 3 years ago, in 2008, when oil prices had surged past $100 a barrel. There were those suspicions then that traders had manipulated the market, and that ultimately has led to a number of commentaries and investigations.

Well, the regulators at the Commodity Futures Trading Commission have now filed this suit, and they are looking into the fraud being utilized in these oil and gas markets, particularly the commodity futures markets.

In the past months, I have come to the Senate floor several times to discuss the net result of all of this, which is what we pay at the pump, and how it directly links to these oil speculators and the game they play in running up the price of oil. Using the data from the Commodity Futures Trading Commission and price data from the Energy Information Administration, we have shown on this floor in speech after speech—until I am blue in the face—the direct link between the rising level of speculators and their speculation in our energy markets and the skyrocketing oil and gas prices.

When the top executives of the five largest oil companies in the United States testified a week ago in our Senate Finance Committee on what role speculation played in the oil markets, I asked them to please explain why gas prices are remaining so high when oil prices have begun to fall. Madam President, you should have heard the mumbling around that followed. The truth is, speculators, whether they are active traders or passive investors, have hijacked our oil markets in recent years, and the American people are the ones who are suffering the consequences because the price of that gas goes up when we pump it into our cars.

Oil prices are set in futures markets, such as those regulated by the Commodity Futures Trading Commission. Futures contracts—meaning we buy a contract of oil at a specified price to be delivered at a future date—allow oil producers to lock in prices on their future output. Those contracts also allow large consumers of fuel, such as airlines, to lock in a price as a hedge against inflation and that future price swinging way up.

The futures markets were intended to bring actual producers and real consumers of oil together, and, in doing so, the supply would match the demand. Speculators then were allowed to play a limited role to ensure there was sufficient liquidity in the market. But then here is what happens—and this is what happened back in 2008 when the price of gas went so high. Speculators constitute now anywhere from two-thirds to 80 percent of the market. They are no longer a bit player, they are the main player, and this is what we need to end.

In last year's financial reform bill, we directed the Commodity Futures Trading Commission to set hard limits on the speculative positions. We gave them a deadline of last January 21. Now we are here months past the deadline, but the CFTC has not yet finalized a rule.

Why should they do this? If you are a legitimate user of oil—say, an airline—you have every reason to want to hedge against the price of that oil going way up, so you buy a contract for delivery of oil at a specified price at a future date. But if you are a speculator—buying and selling oil futures contracts, having no intention to use the oil, having only to put as a downpayment a bare percentage of the total contract price—you can manipulate that price upwards by buying and selling those contracts. This is exactly what happened back in 2008. It is what is happening again, as we have seen the price of a barrel of oil go up and up.

We passed the law last year. The Commission has the authority. We should not have to pass another law that requires them to do it, but if the CFTC cannot get the job done, then we are going to have to. That is the bottom line.

The American people are outraged. Here America is lowering its consumption of oil, here America is lowering its imports of oil, here we are getting more energy conscious, and yet the price of gas keeps going up. It is time to put an end to this.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Arizona is recognized.

Mr. MCCAIN. I thank the Chair.

Mr. President, in a few minutes my colleague from Maryland, Senator CARDIN, will be introducing a bill which I am a cosponsor of, along with a large bipartisan group of our colleagues. I wish to emphasize at the outset that some may characterize this legislation as anti-Russian. In fact, I believe it is pro-Russian. It is pro the people of Russia. It is pro the people who stand up for human rights and democracy in that country which, unfortunately, seems to be sadly deprived of.

This legislation, as my colleague and friend Senator CARDIN will describe, requires the Secretary of State, in consultation with the Secretary of the Treasury, to publish a list of each person whom our government has reason

to believe was responsible for the detention, abuse, or death of Sergei Magnitsky; participated in efforts to conceal the legal liability for these crimes; committed those acts of fraud that Magnitsky uncovered; is responsible for extrajudicial killings, torture, or other gross violations of human rights committed against individuals seeking to expose illegal activities in Russia or exercise other universally recognized human rights.

Second, the individuals on that list would become the target of an array of penalties, among them, ineligibility to receive a visa to travel. They would have their current visas revoked, their assets would be frozen that are under U.S. jurisdiction, and U.S. financial institutions would be required to audit themselves to ensure that none of these individuals are able to bank excess funds and move money in the U.S. financial system.

I guess the first question many people will be asking is who was Sergei Magnitsky? Who was this individual who has aroused such outrage and anger throughout the world? He was a tax attorney. He was a tax attorney working for an international company called Hermitage Capital that had invested in Russia. He didn't spend his life as a human rights activist or an outspoken critic of the Russian Government. He was an ordinary man. But he became an extraordinary champion of justice, fairness, and the rule of law in Russia where those principles, frankly, have lost meaning.

What Sergei Magnitsky did was he uncovered a collection of Russian Government officials and criminals who were associated with the Russian Government officials who colluded to defraud the Russian state of $230 million. The Russian Government in turn blamed the crime on Heritage Capital and threw Magnitsky in prison in 2008.

Magnitsky was detained for 11 months without trial. Russian officials, especially from the Interior Ministry, pressured Magnitsky to deny what he had uncovered—to lie and to recant. He refused. He was sickened by what his government had done and he refused to surrender principle to brute power.

As a result, he was transferred to increasingly more severe and more horrific prison conditions. He was forced to eat unclean food and water. He was denied basic medical care as his health worsened. In fact, he was placed in even worse conditions until, on November 16, 2009, having served 358 days in prison, Sergei Magnitsky died. He was 37 years old.

Sergei Magnitsky's torture and murder—let's call it what it really was—is an extreme example of a problem that is unfortunately all too common and widespread in Russia today: the flagrant violations of the rule of law and basic human rights committed by the Russian Government itself, along with its allies.

I note the presence of my colleague and lead sponsor of this important legislation. I hope in his remarks perhaps my friend from Maryland would mention the latest in the last few days which was the affirmation of the incredible sentence on Mr. Mikhail Khodorkovsky and his associate which is, in many ways, tantamount to a death sentence; again, one of these blatant abuses of justice and an example of the corruption that exists at the highest level of government.

I wish to say again I appreciate the advocacy of my colleague from Maryland and his steadfast efforts on behalf of human rights in Russia, Belarus, and other countries. It has been a great honor to work with him and for him in bringing this important resolution to the floor of the Senate.

I ask unanimous consent that at the appropriate time, the Senator from Maryland and I be allowed to engage in a colloquy.

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

The Senator from Maryland.

Mr. CARDIN. Mr. President, let me thank Senator MCCAIN, not just for taking time for this colloquy concerning Mr. Magnitsky but for his longstanding commitment to justice issues, human rights issues, and the values the United States represents internationally.

We have had a long, proud, bipartisan, and, most importantly, successful record of promoting basic American values such as democratic governance and the rule of law around the world. Engaging the countries of the Eastern Bloc in matters such as respect for human rights was critical to winning the cold war. We will never know how many lives were improved and even saved due to instruments such as the Helsinki Final Act and the Jackson-Vanik amendment. These measures defined an era of human rights activism that ultimately pried open the Iron Curtain and brought down the Wall. Thankfully, the cold war is over and we have a stronger relationship, both at the governmental and societal levels, with countries in Eastern Europe. But, sadly, internationally recognized rights and freedoms continue to be trampled and, in many cases, with absolute impunity.

With the possibility of Russia's accession to the World Trade Organization, and the Presidents of the United States and Russia meeting in France, ours is a timely discussion.

Last week, I joined my distinguished colleague, the Senator from Arizona, and 14 other Senators from both parties to introduce the Sergei Magnitsky Rule of Law Accountability Act—a broad bill to address what the respected watchdog Transparency International dubbed a ''systematically corrupted country'' and to create consequences for those who are currently getting away with murder.

Actions always speak louder than words. The diplomatic manner of dealing with human rights abuses has frequently been to condemn the abusers, often publicly, with the hope that these statements will be all they need to do. They say oh, yes, we are against these human rights violations. We are for the rule of law. We are for people being able to come forward and tell us about problems and be able to correct things. They condemn the abusers, but they take no action. They think their words will be enough. Well, we know differently. We know what is happening today in Russia.

We know the tragedy of Sergei Magnitsky was not an isolated episode. This is not the only time this has happened. My colleague from Arizona mentioned the Mikhail Khodorkovsky case. Mr. Khodorkovsky is today in prison with even a longer sentence. Why? Because he had the courage to stand up and oppose the corrupt system in Russia and something should be done about it. That is why he is in prison, and that is wrong.

So it is time we do something about this and that we make it clear that action is needed. For too long, the leaders in Russia have said we are going to investigate what happened to Sergei Magnitsky. We think it is terrible he died in prison without getting adequate medical care. As Senator MCCAIN pointed out, here is a person whose only crime was to bring to the proper attention of officials public corruption within Russia. As a result of his whistleblowing, he was arrested and thrown in jail and died in jail. He was tortured. That cannot be allowed, to just say, Oh, that is terrible. We know the people who were responsible. In some cases they have been promoted in their public positions. Well, it is time for us to take action. That is why we have introduced this legislation.

While this bill goes far beyond the tragic experiences of Sergei Magnitsky, it does bear his name, so let me refresh everyone's recollection with some of the circumstances concerning his death. I mention this because some might say, why are we talking about one person? But as the Soviet dictator Joseph Stalin said, ''One death is a tragedy; one million is a statistic.'' I rarely agree with Dictator Stalin, but we have to put a human face on the issue. People have to understand that these are real people and real lives that have been ruined forever as a result of the abuses within Russia.

Sergei was a skilled tax lawyer who was well known in Moscow among many Western companies, large and small. In fact, he even did some accounting for the National Conference on Soviet Jewry. Working at the American law firm of Firestone Duncan, Sergei uncovered the largest known tax fraud in modern Russian history and blew the whistle on the swindling of his fellow citizens by corrupt officials. For that he was promptly arrested by the subordinates of those he implicated in the crime. He was held under torturous conditions in detention for nearly a year without trial or

visits from family. He developed severe medical complications which went deliberately untreated, and he died on November 16, 2009, alone in an isolation cell while prison doctors waited outside his door. Sergei was 37 years old. He left behind a wife, two sons, a dependent mother, and so many friends.

Shortly after his death, Philip Pan of the Washington Post wrote:

> Magnitsky's complaints, made public by his attorneys as he composed them, went unanswered while he lived. But in a nation where millions perished in the Soviet gulag, the words of the 37-year-old tax lawyer struck a nerve after he died . . . his descriptions of the squalid conditions he endured have been splashed on the front pages of newspapers and discussed on radio and television across the country, part of an outcry even his supporters never expected.

I think Senator MCCAIN and I would agree, there is a thirst for democracy around the world. People in Russia want more. They want freedom. They want accountability. They want honest government officials. They are outraged by what happened to Sergei Magnitsky.

I would point out just last week I met with a leader of the Russian business community who came here and traveled at some risk, I might say. Just visiting me was a risk. We have people from Russia who are being questioned because they come and talk to us. But he said to me that what happened here needs to be answered by the Russian authorities. He understands why we are introducing this legislation.

A year after his death, and with no one held accountable, and some of those implicated even promoted and decorated, The Economist noted:

> At the time, few people outside the small world of Russian investors and a few human-rights activists had heard of Mr. Magnitsky. A year later, his death has become a symbol of the mind-boggling corruption and injustice perpetrated by the Russian system, and the inability of the Kremlin to change it.

Regrettably, we know Sergei's case, egregious as it is, is not isolated. Human rights abuses continue unpunished and often unknown across Russia today.

To make this point more clear, let's look at another example far outside the financial districts of Moscow and St. Petersburg in the North Caucasus in southern Russia where Chechen leader, Ramzan Kadyrov, condones and oversees massive violations of human rights, including violations of religious freedom and the rights of women. His militia also violates international humanitarian laws. As of this April, the European Court of Human Rights has ruled against Russia in 186 cases concerning Chechnya, most involving civilians.

So Sergei Magnitsky's case is not an isolated case of abuse by the Russian authorities. There has been a systematic effort made to deny people their basic human rights, including one individual, Natalia Estemirova, who personally visited my office at the Helsinki Commission. She was a courageous human rights defender who was brutally assassinated.

So it is time for Russia to take action. But we cannot wait; we need to take action.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. CARDIN. I yield back to my colleague.

Mr. MCCAIN. First, I thank my colleague from Maryland for a very eloquent and, I think, very strong statement, to which I can add very little. But isn't it true, I ask my friend, that this Magnitsky case and the Khodorkovsky case, which I would like for us to talk a little bit more about, are not isolated incidents?

In other words, this is the face of the problem in Russia today. As the Senator mentioned, in its annual index of perceptions of corruption, Transparency International ranked Russia 154th out of 178 countries—perceived as more corrupt than Pakistan, Yemen, and Zimbabwe. The World Bank considers 122 countries to be better places to do business than Russia. One of those countries is Georgia, which the World Bank ranks as the 12th best country to do business.

In other words, isn't it true in the Magnitsky case, it is what has been taking place all across Russia, including this incredible story of Khodorkovsky, who was one of the wealthiest men in Russia, one of the wealthiest oligarchs who rebelled against this corruption because he saw the long-term consequences of this kind of corruption and was brought to trial, convicted, and then, when his sentence was completed, they charged him again?

Talk about a corrupt system, isn't it true that Vladimir Putin said he should ''sit in jail,'' and we now know that the whole trial was rigged, as revealed by people who were part of the whole trial? In other words, isn't it true, I would ask my friend from Maryland, that what we are talking about is one human tragedy, but it is a tragedy that is unfolding throughout Russia that we do not really have any knowledge of? And if we allow this kind of abuse to go on unresponded to, then, obviously, we are abrogating our responsibilities to the world; isn't that true?

Mr. CARDIN. I say to Senator MCCAIN, you are absolutely right. This is not isolated. Magnitsky is not an isolated case of a lawyer doing his job on behalf of a client and being abused by the authorities. We have a lot of examples of lawyers trying to do their jobs and being intimidated and their rights violated.

But in Mr. Khodorkovsy's case, we have a business leader who was treated the same way just because he was a successful business leader. Even worse, he happened to be an opponent of the powers in the Kremlin.

So we are now seeing, in Russia, where they want to quell opposition by arresting people who are just speaking their minds, doing their business legally, putting them in prison, trying them, and in the Khodorkovsky case actually increasing their sentences the more they speak out against the regime.

That is how authoritarian they want to be and how oppressive they are to human rights. But I could go further. If one is a journalist in Russia, and they try to do any form of independent journalism, they are in danger of being beaten, being imprisoned, being murdered. It is very intimidating. The list goes on and on.

Mr. MCCAIN. Could I ask my colleague, what implications, if any, does the Senator from Maryland believe this should have on the Russian entry into the World Trade Organization?

Mr. CARDIN. Well, it is very interesting, I say to Senator MCCAIN. I just came from a Senate Finance Committee hearing, and we were talking about a free-trade agreement. I am for free-trade agreements. I think it makes sense. It is funny, when a country wants to do trade with the United States, they all of a sudden understand they have to look at their human rights issues.

I think all of us would like to see Russia part of the international trade community. I would like to see Russia, which is already a member of a lot of international organizations, live up to the commitments they have made in joining these international organizations.

But it is clear to me that Russia needs to reform. If we are going to have business leaders traveling to Russia in order to do business, I want to make sure they are safe in Russia. I want to make sure they are going to get the protection of the rule of law in Russia. I want to make sure there are basic rights that the businesspeople in Russia and the United States can depend upon.

So, yes, I understand that Russia would like to get into the WTO. We have, of course, the Jackson-Vanik amendment that still applies. I understand the origin of that law, and I understand what needs to change in order for Russia to be able to join the World Trade Organization.

But I will tell you this: The best thing that Russia can do in order to be able to enter the international trade regime is to clean up its abuses in its own country, to make clear it respects the rule of law; that businesspeople will be protected under the rule of law and certainly not imprisoned and tortured, as in the cases of Mr. Khodorkovsky and Mr. Magnitsky. We do not want to see that type of conduct.

If Russia would do that, if they would reform their systems, then I think we would be a long way toward that type of integration and trade.

Mr. MCCAIN. I thank my colleague from Maryland for an eloquent statement about the situation as regards

Russia. I thank him, and I can assure my colleague from Maryland that, as we speak, this will provide—and this legislation which he has introduced, will provide—some encouragement to people who in Russia now, in some cases, have lost almost all hope because of the corruption of the judicial system, as well as other aspects of the Russian nation.

We all know that no democracy can function without the rule of law; and if there are ever two examples of the corruption of the rule of law, it is the tragedy of Sergei Magnitsky and, of course, Mr. Khodorkovsky, who still languishes in prison; who, in his words, believes he—by the extension of his prison sentence—may have been given a death sentence.

So I thank my colleague from Maryland.

Mr. CARDIN. Will my colleague yield for just one final comment?

I think the Senator is right on target as to what he has said. I appreciate the Senator bringing this to the attention of our colleagues in the Senate.

I will respond to one other point because I am sure my colleague heard this. Some Russian officials say: Why are we concerned with the internal affairs of another country? I just want to remind these Russian officials, I want to remind my colleagues here, that Russia has signed on to the Helsinki Final Act. They did that in 1975, and they have agreed to the consensus document that was issued in Moscow in 1991 and reaffirmed just last year with the heads of state meeting in Astana, Kazakhstan, just this past December. I am going to quote from that document:

The participating States—

Which Russia is a participating state—

emphasize that issues relating to human rights, fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of international order. They categorically and irrevocably declared that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating States—

The United States is a participating state—

and do not belong exclusively to the internal affairs of the State concerned.

Mr. MCCAIN. That was a statement by the Government of Russia?

Mr. CARDIN. That was a statement made by the 56 states of the OSCE at a meeting of the Heads of State, which happens about every 10 years. It just happened to have happened last year. Russia participated in drafting this statement. Russia was there, signed on to it, and said: We agree on this. It is a reaffirmation as to what they agreed to in 1991 in Moscow where we acknowledged that it is of international interest, and we have an obligation and right to question when a member state violates those basic human dimension commitments. Russia clearly has done that. We have not only the right but the obligation to raise that, and I just wanted to underscore that to my colleagues.

I say to Senator MCCAIN, your comments on the Senate floor are so much on point. I think people understand it. They understand the basic human aspect to this. But sometimes they ask: Well, why should America be concerned? Do we have a legitimate right to question this? Russia signed the document that acknowledges our right to challenge this and raise these issues.

I thank my colleague for yielding.

Mr. MCCAIN. I thank my colleague from Maryland, and I hope we would get, very rapidly, another 98 cosponsors.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE BUDGET

Mr. REED. Madam President, we have been engaged in a very important debate on our budget over the last few days, and this debate will continue over the next several weeks, indeed, for probably several months. It is not a new debate. Like past debates, at the heart of it are important programs to middle-income Americans, such as Medicare, Medicaid, and Social Security. In some quarters, they are under attack. This does not have to be the case.

In the 1990s, Democratic majorities in the House and the Senate, with a Democratic President, were able to deal with this issue of deficits while preserving these programs and strengthening, indeed, in many cases, these programs. We were able to also provide the kind of economic growth that generated job creation, not just increased GDP or increased profits on Wall Street, but jobs on Main Street.

Much of these efforts were, frankly, undone, beginning in 2000 with tax cuts that did not, as advertised, produce the kind of private employment growth that was necessary for our economy, that shifted the burden to middle-income taxpayers, while giving the wealthiest Americans extraordinary relief and unfunded entitlement programs, such as Medicare Part D and two major conflicts, none of which were paid for.

So now we, once again, face a situation where we have a significant deficit, and we need to address it. President Obama has begun that process with the same commitment to maintaining Medicare, Medicaid, and Social Security, not without reforms and strengthening, but making sure that middle-income Americans and all Americans can have access to these vital programs.

We have taken significant steps in the long run to reform our health care system with the Affordable Care Act.

We hope that act is implemented efficiently and effectively so we can begin to realize long-term savings to bend the proverbial cost curve of our health programs, not just our Federal health care programs but our health care costs across the board that are borne by private insurers as well as private programs.

In fact, ironically, it seems to me that one of the major accelerators of the Medicare Program is the fact that so many Americans—about 40 million—do not have access to consistent quality health care now. Yet, when they turn 65, by right they have access to a panoply of services. I have had discussions with doctors, and they will tell me that they say several times a day to their new Medicare patients: I wish I saw you 10 years ago because I would not have to apply the expensive diagnostic and treatment. I could have done something much easier, much less costly if you had coverage and access.

So that is one of the long-term efforts we have underway, but we have to do a lot more to go ahead and deal with the issues before us.

We have seen Republican budget proposals, but frankly I do not think they strengthen the middle class here in the United States, nor do they provide the kind of sensible investment that will lead to job creation and provide the opportunities that are necessary for succeeding generations in America. I think they are more dedicated to an ideological commitment to simply reduce taxes, and that is something that has to be tested and should be tested in the history of the last several years. That was the same argument that was made in 2001, that such tax cuts would generate huge growth in private employment, unleash huge economic forces here in the United States, and frankly, over the last 10 years, that has not been the case.

So I think we have to be sensible. I think we have to address the tax reforms and tax reductions to middle-income Americans, not continue to favor the richest Americans, when it comes to tax proposals. So much of what the Republican budget seems to do is continue what they started in 2001—huge relief for the wealthiest Americans. But it is increasingly putting the burden on Middle America. In fact, it has been estimated that under the Republican budget, individuals making over $1 million would receive an average tax cut of $125,000 a year. That is a huge cut relative to whatever a working, middle-income American might receive.

One of the other aspects of this budget is the impact it would have on Medicare. Medicare is central to every family in the country. In fact, look around at not just someone who is earning a wage hour by hour, but look at the small businessperson, a man or a woman. Their retirement plan rests on the assumption that they will have access to Medicare. The Republican's proposal, as I understand it, essentially

ends that for individuals who are about 55 years old or younger. Well, in the next 10-plus years or so, they are going to have to come up with a lot of money to pay for the Medicare they assumed they would receive automatically when they retire at 65. That is not just the wage earner, the hourly worker who goes in there; that is the small businessperson whose postretirement plan rests fundamentally on Medicare and them being able to buy a supplemental health care plan to that.

So these are fundamental and, in fact, earth-shattering proposals, in my view.

Currently, seniors on traditional Medicare pay approximately $1,700 in annual premiums. They are charged a limited amount for every hospital stay, have a reasonable deductible for every major procedure and treatment, and pay copays for services and prescription drugs. They are even able to buy, as I alluded to, these Medigap plans so they can supplement what Medicare provides with additional resources, and these supplemental plans are very affordable. On average, Medicare then spends $11,762 on every senior, and that is just an average.

But this would all change, and it would inject a huge amount of uncertainty if the budget that is proposed by Republicans, that is still being debated by the Republicans, that is still being supported in many cases by Republicans is in any way enacted.

In the year 2022, under the proposal, if the Republican budget were enacted, every senior who becomes eligible for what we now call Medicare would be given $8,000 to address all their health care needs and then sent to the marketplace to buy health care private insurance.

Now, I guess I have reached a point in my life where I can reflect and remember that as a youngster in the 1950s, there was, in practically every one of my friends' homes, a grandparent who was there because they didn't have access to Medicare or Medicaid.

They were in a hospital bed in the living room or in some other room. They were being cared for by typically the mother, who was also trying to care for youngsters such as myself and my contemporaries. The reason was, regardless of how much money you have, at some point, insurance companies will not sell you insurance. You are old. You had health experiences prior to that. You are a bad risk, and they are not in the business of insuring bad risks. That was, as much as anything, the genesis of Medicare—the recognition that the private health care market would not, regardless of the ability to pay, provide adequate coverage. And I think we have forgotten that.

When the Congressional Budget Office, a nonpartisan organization, looked at the proposal, they essentially concluded that with this $8,000 transfer to a senior in lieu of traditional Medicare, the senior would be on the hook for an additional $12,500 in health care costs. In fact, it would likely result in some seniors not even getting health care insurance at all, not being able to afford it or at some point, particularly as they aged, getting to the point where no one would write them health care insurance because of the obvious health risks they were.

So this is a plan that I don't think comports with the reality of Americans who have already planned to have access to Medicare and also the reality that what is proposed—an $8,000 transfer payment to an insurance company—would be inadequate to provide the kind of minimum coverage we should be providing to our seniors.

We have had examples before where particular Republicans would propose that they had a new, novel way to provide private health care insurance in lieu of traditional Medicare. When Medicare Advantage was established in 2003, seniors had the option of enrolling in private health insurance plans that were argued by their advocates as being cost-effective, as putting pressure on the public health care plan known as Medicaid. Madam President, 60,000 seniors in my State of Rhode Island enrolled. Private Medicare Advantage plans sell consumers on additional benefits and smaller copays. They went out—very selectively, I suspect—recruiting seniors in a way that they hoped attracted the healthiest seniors, not the sickest seniors, to lower their costs. However, in reality, most of these plans tended to cost more than traditional Medicare as the smaller copays were largely offset by higher monthly premiums.

So there are those who are still seriously proposing this Republican approach to Medicare. I think it will be a mistake. I think it would reduce access to health care coverage for seniors. I do not think the private market will jump up with $8,000. I do not think you will see that Congresses in the future will escalate the cost of these vouchers or transfers to private insurance companies in any way that would be commensurate to the real cost seniors would face.

As a result, I think this proposal will do serious harm to health care and particularly to the middle-income American who, regardless of whether they are running a small business or working for an hourly wage, will now face the prospect of the great uncertainty, the great unknown of no adequate health care coverage when they reach 65. We will go back in time to the period of my youth where, quite frankly, seniors did not have the kind of health care coverage they have today and I believe the kind of health care coverage they deserve.

With respect to Medicaid, there are also proposals here and the thought that Medicaid is just a program for children and poor Americans. But, frankly, if you look at the statistics, there are 26,000 seniors in my State who are on Medicaid, principally because of nursing home care. And we have to ask ourselves, if these plans to provide block grants to States are enacted under the Republican proposal, whether those seniors still can maintain themselves in these nursing facilities, whether the costs will be so great on the States that they will be unable to keep up the level of effort, the level of support they are today.

What seems to be inherent in all of those proposals is not savings but shifting costs, not reforming the system to be more efficient and more effective but simply shifting the cost onto seniors, shifting the cost onto particularly middle-income Americans.

So, I am pleased that we did not accept these Republican budget proposals, which are the wrong way to address our budget issues.

I yield the floor.

The PRESIDING OFFICER (Mr. COONS). The Senator from Indiana.

Mr. COATS. Mr. President, I wish to thank the Senator from North Dakota for allowing me to go first. I will be relatively brief.

I have spoken on the floor on a number of occasions regarding my frustration about the Senate not spending enough time debating what I think is the key, essential issue and challenge facing us, probably greater than any other challenge facing this body in a long time. My frustration only grew yesterday as we voted down four budget proposals.

You know, it has been 757 days since we have passed a budget in this body, and so far, no budget has been proposed this year out of the Budget Committee for us to examine. The President offered up a budget earlier this year that would have spent more, taxed more and borrowed more. It was voted down last night in what I think probably was a historic vote. I did not go back and check the records, but I am not aware of any budget that has ever been presented by the executive branch to the Congress for approval that has not received at least some votes.

The vote last evening was 97 to 0 against the President's budget. It is almost unthinkable that a President—the executive branch—would send a budget to the floor to be debated and voted upon and not achieve one vote. I think what it tells us is that, obviously, that budget was not designed to gain any kind of bipartisan support. But it didn't even obtain any partisan support.

It was not taken seriously, at a time when we need to have in front of us a serious budget to debate and vote on. As I said, there have been 757 days without a budget before us. You cannot run a company, a family, or run anything, unless you prepare a budget and avoid going into debt. That is where we are today.

Republicans did come forward with three proposals. Unfortunately, all of those were voted down. You can argue that none of those three were sufficient

to garner enough support. All three received a significant level of support—particularly two of them. Yet there were not enough votes to pass this body. So while the House has passed a budget, which we voted on yesterday, but unfortunately fell short, these are the only proposals we have had in front of us to debate. These are the only proposals we have had to vote on and set the structure for how we are going to spend the taxpayers' money.

So here we are now approaching the month of June, 5 months into the current calendar year, and 9 months into the fiscal year, and we still don't have a handle on how we are going to spend the taxpayers' money, what restrictions and restraints we will put on that, and how we can live within our means.

This is the debate this Congress should undertake, and it has not been undertaken. Many of us have come to the floor in situations such as this where we have asked for some time to speak, but the issue itself has not been put before us. We know there are negotiations going on relative to how to put a plan into place, but we are a long way from that.

I am here once again to try to urge my colleagues to work together and try to achieve a result—or at least a product on which we can have serious debate to determine the future of how we are going to spend the taxpayers' dollars in a responsible way. The most important factor we have to address is the need, in my opinion, to rein in Washington's excessive spending. The bottom line is that government spending is out of control. The public understands this. I think the response in 2010 to those of us who were running in all the elections sent an unmistakable, long, loud, easily understood signal: We have too much government, we cannot afford the government we have, and we cannot continue to add even more government, which pushes us deeper into debt.

Nearly $1.4 trillion of our spending is discretionary spending that requires us to borrow money. That borrowed money increases our debt obligation reinforcing the need to rein in our spending. This is something we should debate, something that is part of the responsibility of the Congress and Senate. When we are talking about addressing a national debt of over $14 trillion, we need to get serious. A little nick here, a little nick there in spending reductions will not solve the problem. We need to look at the larger picture. We are staring down $14.3 trillion in debt. Credit ratings by Standard & Poor's have downgraded the outlook for the U.S. debt, with a negative warning. Economic growth is sputtering across the country. Unemployment remains high, and States are dipping deeper into the red, zeroing in on billions—which is a lot of money, but it is only a minuscule amount compared to the trillions we are saddled with in debt that we ought to be addressing. It is time for Congress and the administration to stop ignoring the obvious. The rapid growth of mandatory spending is endangering our financial future.

I point to this chart on my left. It simply points out the dramatic growth that has occurred and will continue to occur over the years in the future. It doesn't take a mathematician—although the math is pretty simple—when you spend $3.7 trillion a year and take in $2.2 trillion, that leaves you with a big deficit. But it doesn't take a mathematician or anybody with any sophistication in economics to understand that if we stay on the current path, we are going to continue to see this line escalate. This red on here is red ink. It is net interest we will owe. What does that mean? It means that to continue borrowing in order to finance what we are doing, we are going to have to pay larger and larger rates of interest to the lenders because of the risks associated with our potential inability to pay back the loans we have taken.

This flow of red ink, this red tide—if we don't address this, it is going to make it difficult for Americans to buy cars, pay their mortgages, purchase homes, and buy groceries. The prices of products will go higher because the interest rates will go higher. We are running ourselves into a desperate situation. I think everyone understands that. I think it has been made clear to the American people.

We don't have to spin this whole message here in order to convince the American people we don't have a problem. We do, and they understand that. That is what 2010 was all about. We cannot continue to go forward in 2011 without providing any basis of a real solution to assure the financial world and the people that we are taking steps in order to address this.

I think there is a consensus—and if anybody doesn't understand this, they haven't looked at the problem—that we could tax Americans to death, we can cut discretionary spending by massive amounts, and we won't begin to address the problem we have, unless we address the massive amount of spending on mandatory programs. We don't have control over mandatory programs in terms of budgeting; they are simply there, and if you are eligible, you get to draw from the program. All of that is fine, if you have money to do it. But we are running out of money to pay those recipients who are continuing to receive benefits from these entitlement programs. Unless we address those, we are not going to solve the problem.

Let's take a couple of these, and let's look at Medicare. Everybody says this is a political nonstarter. If you dare talk about it, you are going to get zinged in the next election, and you will be characterized as taking away benefits from the elderly, when the plans that have been put forward don't do anything of the sort. Nevertheless, it is important to understand the dimensions of the problem we are facing from this one entitlement. Over the next 10 years, Medicare spending—spending on this one entitlement—is expected to double.

A few weeks ago, the Medicare trustees announced that the hospital trust fund would be exhausted by 2024—5 years earlier than estimated in last year's report. Who knows what next year's report is going to tell us.

The bottom line is this program is going to go broke. Failing to restructure Medicare jeopardizes the medical benefits of present and future elderly Americans. So rather than terminating Medicare, as has been charged but is not true, rather than destroying Medicare, which has been charged but is not true, what we are trying to do is find a way to restructure it in a way that Medicare will be viable and solvent so benefits will be available for future retirees.

When Medicare was first enacted in 1967, the program cost $2.5 billion. At that time, Congress predicted that the program would cost $12 billion by 1990. That wasn't the case. We underestimated it just a bit—by $86 billion, which is more than just a bit. When it starts at $2.5 billion, and you project it will be $12 billion, and you ended up being off on that estimate by $86 billion, you have to start asking yourself some questions. You have to start thinking that maybe we got this formula wrong, or maybe our assumptions didn't turn out as we thought they were going to on the cost of Medicare.

Today, Medicare is roughly $494 billion, with approximately $89.3 trillion in total unfunded liabilities. These are staggering numbers. They are numbers beyond our ability to comprehend. These numbers are beyond our ability to sustain.

There is no possible way on Earth, no matter how fast or how hard we grow, that we can reach solvency in the Medicare Program without any action. Why? Because after World War II, soldiers came home, and people had deferred having families, and the so-called baby boom generation was born. It has moved through our entire history, over the last 60 years or so, like a pig moves through a python. Early on, there was a rush to provide housing for soldiers and their families. There was a massive infusion of money into baby cribs and the need for hospitals and doctors and nurses to deliver children.

A few years later, all of a sudden, we had to build a massive number of new elementary schools. As this baby boom has moved through their lifespan, we have seen dramatic impacts on the economy—many of them positive. But the colleges that had to be expanded and built, and universities and training facilities, and the education that had to be provided, the employment that needed to be provided—all of this has had a dramatic impact on our economy. We have known for decades that eventually the pig moving through the python was going to reach the point of

retirement, and when it reached the point of retirement, it was going to have an enormous impact on our finances.

Instead of anticipating this coming and putting into place structural plans that would accommodate the needs, legitimate needs of those for retirement income and benefits, we have instead ignored this reality. We have pushed it down the road. Nobody wanted to touch it. Election after election, it was said we better postpone that debate for the next election because it is too hot to deal with now. Well, it is all coming undone. We are at the point almost of no return.

The proposals that have been put forward—you may not agree with every portion of them, and I don't. But the House brought to us a budget plan. You have to give PAUL RYAN a great deal of credit for the extraordinary amount of work and effort he put into it. Maybe you don't like all of it, but it is at least a plan to debate, modify, and adjust; it is something that gives us an opportunity to start down the path of paying off our debt, of maintaining solvency for the Medicare Program.

That is what we ought to be debating instead of saying we are into another cycle of ''gotcha,'' and you have touched the third rail. You made the decision to put Medicare in play and go to the public and tell them we are going to take away their health care benefits when they retire. The opposite is true. We are trying to save that for those who are retiring. We are trying to look at ways to restructure the program so it doesn't break Medicare, or break our entire economy.

Today, the average man is living into his 70s, and an average woman into her 80s, or even 90s. As a result, more elderly Americans are on Medicare than originally anticipated. The Federal Government can no longer continue with business as usual. It is time for some honesty for the American people. Washington is promising to deliver benefits it can't afford. We can no longer nickel and dime doctors and hospitals and force them to pay for the care Washington promised elderly Americans. More and more doctors are forced to turn away Medicare patients. The American Medical Association revealed that 17 percent of the more than 9,000 doctors surveyed are forced to limit the number of Medicare patients they accept. And among primary care physicians, this rate is 31 percent. Why? Because we don't have the money to reimburse them for the cost it takes to provide that care.

The American Osteopathic Association said 15 percent of its members refused Medicare and 19 percent declined to accept new Medicare patients. Physicians and hospitals in my home State of Indiana are feeling the pain from the Congress's inaction as well. Hospitals such as Deaconess Clinic in Evansville, IN, say one-third of their patients are on Medicare. When hospitals and doctors are not receiving the necessary compensation for services conducted on one-third of their patients, it has a devastating impact on their businesses.

If we don't reform Medicare, we lose Medicare. Let me repeat that. If we don't take steps to reform Medicare, we lose Medicare. If we don't restructure the program, more patients will lose the care they desperately need.

Mr. President, a very prominent figure—a leader of this country—made this statement:

> Almost all of the long-term deficit and debt that we face relates to the exploding costs of Medicare and Medicaid. Almost all of it. That is the single biggest driver of our Federal debt. And if we don't get control over that we can't get control over our Federal budget.

That defines, in a very basic statement, exactly the challenge that is before us. It gives us the warning we need to heed, and it should spur us into action.

Let me repeat that statement once again.

> Almost all of the long-term deficit and debt that we face relates to the exploding costs of Medicare and Medicaid. Almost all of it. That is the single biggest driver of our Federal debt. And if we don't get control over that we can't get control of our Federal budget.

That statement was made by President Barack Obama. It was not made by a Republican. It was not made by an editorial piece in the Wall Street Journal. It was not made by a tea party leader or advocate. It was made by our current President. Our President has said we cannot sustain what we are doing, and we have to address it or it is going to take down our whole budget.

I think that is true—it has been backed up by analysts who have looked at this whole situation, left, right, nonpolitical, political, whatever. Why then are we not going forward with addressing this very question? That is what people sent us here to do in 2010. That is what they are asking us to do now. Yet we are acting as if this statement by the President of the United States has nothing to do with what we need to do, that we can simply ignore this and go forward and just cut a little here and cut a little there but we can't touch the entitlements—we can't touch Medicare.

The papers are full today with headlines saying that the results of the New York special congressional race was because the people have been scared—well, they didn't say ''scared,'' but that it was people saying ''don't cut our Medicare.'' What it should have said is, those people who are saying ''don't cut our Medicare'' are basically saying ''keep mine going until this thing runs out. I am afraid I might live too long, and then I won't have benefits at the end.'' But for sure our kids won't have it, for sure our grandchildren won't have it because at its current rate, as the President of the United States has acknowledged, it is unsustainable.

So we have two options here. We can continue with the status quo—we can quibble over how much to cut from our discretionary spending, or that portion of the budget which we have control of—and continue ignoring the entitlement programs or we can make a commitment and have the political will to fulfill that commitment by saving those programs through some sound restructuring. This does not mean current recipients of Medicare are going to be knee-capped or have their benefits dropped. This does not mean that even those nearing retirement are going to face that prospect. What it does mean is, if we don't put the structural reforms in now to address the future problems, we are going to lose the whole program. The gravest threat to Medicare is doing nothing. If we do nothing, not only will Medicare collapse but so will our fiscal house.

In the papers today, a former President—another Democrat, Bill Clinton—has urged his fellow Democrats not to ''tippy-toe around'' Medicare. Continuing that quote, he said the program ''is part of a whole health-care system that has a toxic effect on inflation.'' He went on to say, ''We've got to deal with these things.''

Mr. President, I am here not to criticize the Democrats for putting us in this situation. I think we all bear some responsibility. The country does not want us to point fingers at each other, and they do not want us to use this as a political advantage for the 2012 election. They want us to do the right thing, which they all know needs to be done, and I believe they will reward us and recognize us for at least having the courage to step forward and address a real problem that I think everyone now understands and recognizes.

So whether it is the Paul Ryan plan coming out of the House, whether it is a Democratic budget plan coming out of the Budget Committee, whether it is some other plan coming out between the negotiations that are going on—or should go on—between the executive branch and the congressional branch, this is something we have to do. We have simply got to put aside our partisanship and concerns and worry about the 2012 elections and rise above politics. We did that in 1983 when we restructured Social Security. We had a Republican President, a Democratic House leader, and members of the Democratic congressional committee and Senate committee—the political people—all stood together and said: This rises above the election. It is too important not to address it.

We can just take this one issue and say: Let's take this out of politics. Let's stand together as Republicans and Democrats, along with the President, and do what is right for the country.

The bottom line is that no matter what we do here, if the President doesn't support us in this effort, it will not succeed. He has the veto pen, and he has the ability to lead or not lead. So I guess, as I have before, I am calling on the President and saying this important issue can only be successful

if he will engage and lead us and be part of this effort to solve a problem that affects every living American and those yet to be born in this country. It dramatically affects our future but sooner than any of us, I believe, think. It affects our economy and our ability to grow.

All of this has to be coupled with progrowth policies. We can't cut our way out of all this. We can help restructure, we can help make cuts where necessary, and we can help our economy grow by putting policies in place that will stimulate the economy. That combination, put together in a package, is what we need to support. And I am hoping we will put politics aside for this one issue that is so important to the future of our country.

Mr. President, I have probably said more than I needed to say at this particular point in time. I appreciate the opportunity and again thank the Senator from North Dakota for agreeing to let me go forward here. As chairman of the Budget Committee, I know he is fully cognizant and aware of these issues and is working to try to address them also. I hope we can work together to find a solution to this very urgent problem.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I want to thank the Senator from Indiana for his thoughtful presentation. There are parts of it with which I disagree, but the overall theme of what he has said is undeniably true.

I believe our country is in deep trouble. At the end of this year, we will have a debt that is 100 percent of the gross domestic product of the United States. We have had two of the leading economists in this country tell us, after a review of 200 years of economic history, that when a country reaches a gross debt of more than 90 percent of its GDP, its future economic prospects are diminished. And that is where we are. So I agree with the Senator from Indiana that this is the time. We must find a way to come together to craft a plan that deals with this debt threat.

Five years ago, the ranking Republican on the Budget Committee, Senator Gregg, and I came up with the concept of a commission. That effort led to the commission that was in place last year, and it came up with a recommendation to reduce the debt $4 trillion over the next 10 years, and 11 of 18 commissioners supported it. Senator Gregg and I both supported it. We had five Democrats, five Republicans, and one Independent. That is the only bipartisan plan that has emerged from anywhere. But we needed 14 of 18 to agree for it to come to a vote in Congress.

There were many parts of that plan I didn't like. I would have gone further than that plan. I proposed to the commission that we have a $6 trillion plan of debt reduction because we could balance the budget in 10 years with that kind of plan. But it was a step in the right direction. It was a big step in the right direction. So I supported it, along with the other 10 commissioners who did.

I want to say to the Senator from Indiana that I respect the presentation he just made because, in larger terms, it says what has to be said. We all have to be truth-tellers. However uncomfortable the truth is, we have to be truth-tellers. I believe the truth is that when the revenue is the lowest it has been in 60 years as a share of GDP and spending is the highest it has been in 60 years as a share of GDP, we have to work both sides of the equation. We are going to have to cut spending, and I believe we are going to have to raise revenue.

None of it is very popular. If you ask the American people, they will say to you: Well, yes, get the deficit and debt under control, but don't touch Social Security, don't touch Medicare, and don't touch defense. And by the way, just those three are about 80 percent of Federal spending if you add up all the mandatory programs and add up defense. That is about 80 percent of Federal spending. And if you ask the American people, they say: Don't touch any of them. On the revenue side, they say: Don't touch that. Well, do you know what is left? Twenty percent of Federal spending.

If you start asking them questions about the elements of that 20 percent, they reject every one except one—foreign aid. They say: Yes, cut foreign aid. A majority supports that. The problem is that is only 1 percent of the budget. Here we are borrowing 40 cents of every dollar we spend, and even if we eliminate all foreign aid, it does not make a material difference.

The other thing the American people support by a majority—the only other thing—is taxing the wealthy. Let me just say that I believe the wealthy are going to have to pay somewhat more. But that won't solve our problem because to solve the problem, you would have to have a top rate of 70 to 80 percent on corporations and individuals. What would that do to the competitive position of the United States?

So I believe we all are going to have to be truth-tellers, and before we are done, we are going to have to find a way to come together. I was part of that effort on the commission. I was part of that effort in this group of six, which is now a group of five because one of our members left. And there is this other effort under way that is a leadership effort with the White House being involved. At the end of the day, the White House has to be at the table.

What Senator Gregg and I had recommended was that the Secretary of the Treasury be the chairman of the commission and the head of OMB be one of the 18 members. That wasn't adopted by the Congress. We got 53 votes in the Senate for our proposal, but 53 votes doesn't pass things around here. You have to have 60. You have to have a supermajority. So here we are.

Let me just say again that I thank the Senator for his thoughtful presentation because that is what it is going to take. We are going to have to be brave. We are going to have to show some political courage here to do what is right for our country. So I appreciate the thoughtful remarks of the Senator from Indiana.

Let me make a brief review in response to some of what I have heard this morning because I have heard some things with which I strenuously disagree that I believe require a response. We all agree we are on an unsustainable path. We are borrowing 40 cents of every dollar. That cannot be continued.

As I indicated earlier, this is a 60-year look at the spending and revenue of the United States. We can see the spending line is the red line; the green line is the revenue line. The spending of the United States as a share of national income is the highest it has been in 60 years. The revenue is the lowest it has been in 60 years.

Some of our colleagues say it is just a spending problem. Factually, I reject that. The facts show it is not just a spending problem—although it is clear we do have a spending problem. When spending is the highest it has been in 60 years, clearly we have a spending problem. But as this chart reveals, revenue is the lowest it has been in 60 years. So, clearly, we have a revenue problem as well.

Yesterday we voted on the package that came from the House of Representatives. The package that came from the House Budget Committee was passed by the House of Representatives. Even though that package was defeated overwhelmingly and on a bipartisan basis here yesterday, again this morning we had colleagues come and talk about what a great package it was. I do not believe it was a great package. I think it was a terrible package, and here is why—and now I am quoting former economic adviser to President Reagan, one of President Reagan's economic advisers, Mr. Bartlett. He said, about the House Republican plan, the following:

> Distributionally, the Ryan plan is a monstrosity. The rich would receive huge tax cuts while the social safety net would be shredded to pay for them. Even as an opening bid to begin budget negotiations with the Democrats, the Ryan plan cannot be taken seriously. It is less of a wish list than a fairytale utterly disconnected from the real world, backed up by make-believe numbers and unreasonable assumptions. Ryan's plan isn't even an act of courage; it's just pandering to the tea party. A real act of courage would have been for him to admit, as all serious budget analysts know, that revenues will have to rise well above 19 percent of GDP to stabilize the debt.

This is a former economic adviser to President Reagan commenting on the House Republican plan that we rejected on a bipartisan basis here yesterday.

Why does he say it is a monstrosity? He says it because even though revenue is the lowest it has been in 60 years,

the first thing the Republican budget from the House did was cut taxes further, an overwhelming tax cut for the wealthiest among us after they already enjoyed very significant tax reductions over the last decade.

In fact, the plan that came from the Republican House would have given those who have over $1 million of income a year on average a tax cut of over $192,000. For those who are as fortunate as to earn over $10 million a year, the plan they sent over here would have given them on average a tax cut of $1,450,000. That is a fact. That is just a fact.

Does that make any sense at all when the revenue of this country is the lowest it has been in 60 years, that the first thing you do is dig the hole deeper, give another $1 trillion of tax cuts going to the wealthiest among us? It makes no sense.

It did not end there because the plan from the House also would permit a scam that is occurring to continue. The scam I am referring to relates to this little building down in the Cayman Islands, Ugland House. This little five-story building down in the Cayman Islands claims to be the home of 18,857 companies. Really, 18,000 companies are doing business out of this little five-story building down in the Cayman Islands? Please. Mr. President, 18,000 companies are not doing business out of this little five-story building down in the Cayman Islands. The only business that is going on is monkey business, and the monkey business that is going on is avoiding the taxes they legitimately owe to the United States.

You wonder why big companies making billions of dollars a year can announce they owed no taxes to the United States—none? It is because they are operating out of Ugland House down in the Cayman Islands where there are no taxes, and they show their profits in their companies down in the Cayman Islands.

When I was tax commissioner in my State I found a company that reported all of their earnings down in the Cayman Islands. They did business all across the country, but amazingly enough none of those companies showed any profits in the United States. They showed all their profits in the Cayman Islands where, happily, there are no taxes.

The Republican budget plan said: That is fine. Keep doing it.

That is not fine. It is not fair. We know from our own Permanent Committee on Investigations in the Senate that these offshore tax havens are proliferating. Here is a quote from our Senate Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations:

> Experts have estimated that the total loss to the Treasury from offshore tax evasion alone approaches $100 billion per year, including $40 to $70 billion from individuals and another $30 billion from corporations engaging in offshore tax evasion. Abusive tax shelters add tens of billions of dollars more.

The Republican plan from the House says: No problem. Keep on doing it. In fact, we will go you one more. We will give you more tax cuts for the wealthiest among us.

I tell you, that plan cannot stand scrutiny. At the same time it says: You know, because we have the lowest revenue in 60 years, and because we are going to give even more tax preferences, more tax credits, more tax schemes to the wealthiest among us, we are not going to be able to keep Medicare.

I have heard colleagues say that these Draconian cuts to Medicare that are in the House plan are a way of saving Medicare. You don't save Medicare by destroying it. That is what the House plan does, make no mistake. It ends Medicare as we know it. Why do I say that? Let me just show you what it does.

Right now, under traditional Medicare, the individual pays 25 percent of their health care costs. That is how it works today. You pay about 25 percent. A senior citizen eligible for Medicare pays about 25 percent of their costs. Under the House Republican budget plan that they passed and sent to the Senate that we defeated yesterday by a bipartisan vote, they would increase what the individual pays from 25 percent to 68 percent, and they claim they are saving Medicare. It doesn't look to me like they are saving it. It looks to me like they are completely undoing it.

When we add it all up, what is most striking is that the House Republican plan, although it gives massive tax cuts to the wealthiest among us, another $1 trillion of tax cuts, even though it shreds Medicare and completely undermines Medicaid, which would mean another 34 million people do not have health care coverage in this country because they completely undo the coverage for health care passed last year so 34 million people are not going to have health care as a result of their plan—even with all of that and the other dramatic cuts—by the way, they cut support for energy programs to reduce our dependence on foreign energy, they cut that 57 percent; they cut education almost 20 percent—even after all that you would think at least they got the debt under control? No.

Amazingly enough their plan, according to their own numbers, would add $8 trillion to the debt. Wow. They shred Medicare, they cut education dramatically, they cut almost 60 percent of the funding for energy to reduce our dependence on foreign energy—they cut that 57 percent, and they still add $8 trillion to the debt. That is a good plan? I don't think so. I don't think that is a plan that can stand much scrutiny.

We also heard a lot of complaints from the other side that we have not gone to markup on the budget in the Senate. That is true. The reason we have not is because something is going on in this town that is very unusual. There are high-level bipartisan talks going on with the White House on what the budget plan should be to deal with our debt. This is something I have encouraged for years.

This year I have repeatedly called for a summit to deal with our debt, to get a plan in place to cut spending, and, yes, to raise revenue—hopefully without raising taxes but by eliminating tax expenditures, tax loopholes, this kind of scam we have just talked about of offshore tax havens and abusive tax shelters. That bipartisan leadership effort that is underway deserves a chance to succeed. If they reach a conclusion, they may need a budget resolution. They may need us to have a markup in the Budget Committee to implement their plan.

Some do not want to wait, they do not want a bipartisan agreement. But we simply must have a bipartisan agreement if there is to be any chance for success.

The House is controlled by the Republicans. The Senate is controlled by the Democrats. There is a Democrat in the White House. The only possible way that a plan is actually passed into law and implemented is if we work together. I did it for all last year on the President's commission. I have done it for months of this year with three Democrats, three Republicans, spending hundreds of hours trying to come up with a bipartisan plan to implement the recommendations of the committee. So I don't take a back seat to anybody with respect to being serious about trying to get a plan to get our debt under control because it is a fundamental threat to the economic security of the United States.

But here is what the Republican leader himself said about the effort that is underway, the bipartisan leadership effort:

> [T]he discussions that can lead to a result between now and August are the talks being led by Vice President Biden . . . that's a process that could lead to a result, a measurable result. . . . And in that meeting is the only Democrat who can sign a bill into law; in fact, the only American out of 307 million of us who can sign a bill into law. He is in those discussions. That will lead to a result. That is why we have not gone to a budget markup, because we have the patience to wait for the outcome of these bipartisan leadership talks. The top Republicans are represented in the Senate, the top Republicans in the House are represented, as are the Democrats in the Senate and the House, led by the White House.

The Republican leader said this as well about the talks:

> We now have the most important Democrat in America at the table. That's important. He is the only one of the 307 million of us who can actually sign a bill into law. And I think that's a step in the right direction. And the Biden group is the group that can actually reach a decision on a bipartisan basis. And if it reaches a decision, obviously we will be recommending it to our members.

That is the point. Why would we go to a partisan budget markup and refuse to wait for the leadership negotiation that is underway to succeed, when we know if they do succeed in all likelihood they will need us to do a budget

markup to implement what they decide?

I have the patience. I have spent 5 years working, first, with Senator Gregg, the ranking Republican on the Budget Committee, then with all 18 members of the fiscal commission, now with the group of six—three Democrats and three Republicans—trying to put together a plan to implement what the commission recommended to get our debt under control.

I have the patience to wait a few more weeks to see if the combined leadership of this country, Republican and Democrat, working with the President of the United States, can come up with a plan to get our debt under control. We should all have that patience. We should all hope they succeed. But we are not going to be sitting and waiting. While we are hoping for a successful outcome, this Senator will continue to work with Republicans and Democrats to come up with a bipartisan plan to meet our debt threat. All of us have that obligation. All of us have that responsibility.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Would the Chair inform me when I have spoken for 5 minutes.

The PRESIDING OFFICER. The Senator will be notified.

FREE TRADE

Mr. GRASSLEY. Mr. President, I have been a long-time supporter of free trade. I believe it is always a good thing when American businesses, manufacturers, and farmers have more market access for their products.

I have also been a longtime supporter of specific free trade agreements that are waiting to be acted on by the Congress: the South Korea, Colombia, and Panama agreements. We have had too many years of talking about being long-time supporters of free trade agreements. Yet we have not had an opportunity to back up our talk with votes because we can't vote until the President presents them to Congress.

The time to present these free trade agreements is long overdue. The administration needs to stop moving the goal posts every time we are about to kick the ball through.

Take the Panama agreement as an example. The United States and Panama reached an agreement in principle in December of 2006. However, congressional Democrats expressed concern regarding certain labor issues that existed in Panama at the time. The Bush administration negotiated a deal with the congressional Democrats who had newly taken over the Congress in an agreement that was announced on May 10, 2007. As a result, then-President Bush addressed the labor issues in the trade agreement that the United States signed with Panama in late June of 2007.

If there were a big news conference on May 10, 2007 that there has been an agreement reached, wouldn't one think these agreements would be passed by now? Not so 4 years later.

Despite the fact that the demands made by congressional Democrats were incorporated in the signed trade deal, congressional Democrats would not allow a vote on the agreement. Instead, they moved the goal posts by demanding more changes be made by the Panamanian Government.

After President Obama took office, the trade issue was sidelined. Along with others, I made a case that trade agreements needed to be a part of America's economic recovery effort. I got an opportunity to make the case directly to the President in December of 2009. Then in January 2010, the President said in a message to Congress that he wanted to double exports within the next 5 years. That is a very worthy goal.

Well, it is pretty hard to double exports and help employers create jobs while ignoring these trade agreements. Supporters of free trade and the jobs supported by trade average about 15 percent above the national average. We are talking about good jobs, so there are reasons to keep the pressure on.

Finally, after many months of waiting, the trade ambassador went back to work to get the Panamanian Government to agree to meet the additional demands set out by congressional Democrats in the Obama administration. The ambassador also set out to gain further commitment from South Korea and Colombia.

The Panamanian Government has addressed the additional demands by making the necessary amendments to their laws. The additional concerns the administration had with the South Korean and Colombian deals were addressed as well. Earlier this May, Ambassador Kirk indicated all three trade agreements were ready for Congress to consider. But the Obama administration decided to move the goal posts once again. Instead of moving these agreements forward for swift approval to help the economy move along and the swift approval which I believe they will receive when they get a vote, the administration now has another requirement: approval of trade adjustment assistance.

While U.S. manufacturers and businesses and farmers risk losing more and more market share in these countries, Democrats keep coming up with reasons for holding up these trade agreements by moving the goal posts. There is simply no reason to keep on moving the goal posts. The administration has said these three trade agreements are ready. One of the best things we can do right now for U.S. businesses, farmers, and workers is to implement these trade agreements which will give a much-needed boost to our economy.

I am not suggesting we do nothing on trade adjustment assistance, because I support that 40-year-old program, but reaching an agreement on that program should not be used as another excuse for moving the goal posts. All three of the pending trade agreements need to be sent to Congress without further delay.

I yield back the remainder of my time, and I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Oregon.

Mr. WYDEN. Mr. President, the Senate is preparing to pass another 4-year extension of the USA PATRIOT Act. I have served on the Intelligence Committee for over a decade and I wish to deliver a warning this afternoon. When the American people find out how their government has secretly interpreted the PATRIOT Act, they are going to be stunned and they are going to be angry. They are going to ask Senators: Did you know what this law actually permits? Why didn't you know before you voted on it? The fact is anyone can read the plain text of the PATRIOT Act. Yet many Members of Congress have no idea how the law is being secretly interpreted by the executive branch because that interpretation is classified. It is almost as if there are two PATRIOT Acts, and many Members of Congress have not read the one that matters.

Our constituents, of course, are totally in the dark. Members of the public have no access to the secret legal interpretations, so they have no idea what their government believes the law actually means.

I am going to bring up several historical examples to try to demonstrate what this has meant over the years. Before I begin, I wish to be clear I am not claiming any of the specific activities I discuss today are happening now. I am bringing them up because I believe they are a reminder of how the American people react when they learn about domestic surveillance activities that are not consistent with what they believe the law allows. When Americans learn about intelligence activities that are consistent with their understanding of the law, they look to the news media, they follow these activities with interest, and often admiration. But when people learn about intelligence activities that are outside the lines of what is generally thought to be the law, the reaction can get negative and get negative in a hurry.

Here is my first example. The CIA was established by the National Security Act of 1947 and the law stated that the agency was ''forbidden to have law enforcement powers or internal security functions.'' Members of the Congress and legal experts interpreted that language as a clear prohibition against any internal security function under any circumstances. A group of CIA officials had a different interpretation. They decided that the 1947 law contained legal gray areas that allowed the CIA to monitor American citizens for possible contact with foreign agents. They believed this meant they could secretly tap Americans' phones, open their mail, and plant listening devices in their homes, among other

things. This secret legal interpretation led the CIA to maintain intelligence files on more than 10,000 American citizens, including reporters, Members of Congress, and a host of antiwar activists.

This small group of CIA officials kept the program and their ''gray area'' justification to the program a secret from the American people and most of the government because, they argued, revealing it would violate the agency's responsibility to protect intelligence sources and methods from unauthorized disclosure. Did the program stay a secret? It didn't. On December 22, 1974, investigative reporter Seymour Hersh detailed the program on the front pages of the New York Times. The revelations and the huge public uproar that ensued led to the formation of the Church Committee. That committee spent nearly 2 years investigating questionable and illegal activity at the CIA. The Church Committee published 14 reports detailing various intelligence abuses which, in addition to illegal domestic surveillance, included programs designed to assassinate foreign leaders. The investigation led to Executive orders reining in the authority of the CIA and the creation of the House and Senate Intelligence Committees.

In 1947, President Harry Truman and his top military and legal advisers secretly approved a program named PROJECT SHAMROCK. PROJECT SHAMROCK authorized the Armed Forces Security Agency and its successor, the NSA, to monitor telegraphs coming in and out of the United States. At the outset of the program, companies were told that government agents would only read ''those telegrams related to foreign intelligence targets,'' but as the program grew, more telegrams were sent and received by Americans and they were read. During the program's 30-year run, the NSA analysts sometimes reviewed as many as 150,000 telegrams a month.

While the Ford administration said it made all pertinent information about PROJECT SHAMROCK available, the Senate Intelligence Committee and the Justice Department had kept the program secret from the public. They argued that public disclosure was both unjustified and dangerous to national security, and it avoided Congress's questions regarding the legality of the program by stating that the telegrams present somewhat different legal questions from those posed by domestic bugging and wiretapping. That program didn't stay secret either.

The newly formed Senate Intelligence Committee ultimately disclosed the PROJECT SHAMROCK program on November 6, 1975, arguing that public disclosure was needed to build support—build support—for a law governing NSA operations. The resulting public uproar led to a congressional investigation. The NSA's termination of PROJECT SHAMROCK and the passage of the Foreign Intelligence Surveillance Act of 1978, which attempted to subject domestic surveillance to a process of warrants and judicial review.

Years later, during the Reagan administration, senior members of the National Security Council secretly sold arms to Iran and used the funds to arm and train Contra militants to topple the Nicaraguan Government. Selling arms to Iran violated the official U.S. arms embargo against Iran and directly funding the Contras was illegal under the Boland amendment. That was the one Congress passed to limit U.S. Government assistance to the Contras.

But the officials at the National Security Council were convinced they knew better. They were convinced that violating the embargo and illegally supporting the Contra rebels would help free American hostages and help fight communism in Nicaragua. Instead of engaging in a public debate and trying to convince the Congress and the public they were right, they secretly launched an arms program and hid it from the Congress and the American people. How did that work out for them?

The New York Times published a story of these activities on November 25, 1987. A joint congressional committee was launched to investigate the Iran Contra affair with televised hearings for over a month. The House Foreign Affairs Committee and the House and Senate Intelligence Committees held their own hearings. The first Presidential commission investigating the National Security Council was launched. Multiple reports were published documenting the administration's illegal activities, and the Nicaraguan Government sued the United States. Dozens of court cases were filed and National Security Council officials—including two National Security Advisers—faced multiple indictments.

Finally, following the terrorist attacks of September 11, 2001, a handful of government officials made the unilateral judgment that following U.S. surveillance law, as it was commonly understood, would slow down the government's ability to track suspected terrorists. Instead of working with the Congress, instead of coming to the Congress and asking to revise or update the law, these officials secretly reinterpreted the law to justify a warrantless wiretapping program that they hid from virtually every Member of the Congress and the American people.

It is not clear how long they thought they could hide a large, controversial national security program of this nature, but they kept it so secret that even when it yielded useful intelligence, classification restrictions sometimes prevented the information from being shared with officials who could have used it.

I was a member of the Senate Intelligence Committee at this point—a relatively new member—but the program and the legal interpretations that supported it were kept secret from me and virtually all of my colleagues.

Again, did that program stay secret? The answer is no. After several years, the New York Times published a story uncovering the program. The resulting public uproar led to a divisive congressional debate and a significant number of lawsuits. In my view, the disclosure also led to an erosion of public trust that made many private companies more reluctant to cooperate with government inquiries.

As most of my colleagues will remember, Congress and the executive branch spent years trying to sort out the details of that particular program and the secret legal interpretation—the secret legal interpretation—that was used to justify it. In the process of doing so, Congress also attempted to address an actual surveillance issue. I think all my colleagues who were here for that debate would agree those issues could have been resolved far more easily, far less contentiously, if the Bush administration had simply come to the Congress in the first place and tried to work out a bipartisan solution to them rather than, in effect, trying to rewrite the law in secret.

When laws are secretly reinterpreted this way, the results frequently fail to stand up to public scrutiny. It is not surprising, if you think about it. The American law-making process is often cumbersome, it is often frustrating, and it is certainly contentious. But over the long run, this process is a pretty good way to ensure that our laws have the support of the American people, since those that do not will actually get revised or repealed by elected lawmakers who follow the will of our constituents. On the other hand, when laws are secretly reinterpreted behind closed doors by a small number of government officials—and there is no public scrutiny, no public debate—you are certainly more likely to end up with interpretations of the law that go well beyond the boundaries of what the American people are willing to accept.

Let me make clear that I think it is entirely legitimate for government agencies to keep some information secret. In a democratic society, of course, citizens rightly expect their government will not arbitrarily keep information from them, and throughout our Nation's history Americans have vigilantly guaranteed their right to know. But Americans do acknowledge certain limited exceptions to the principle of openness. We know, for example, that tax officials have information about all of us from our tax returns. But the government does not have the right or the need to share this information openly. This is essentially an exception to protect personal privacy.

Another limited exception exists for the protection of national security. The U.S. Government has an inherent responsibility to protect our people from threats. To do this effectively, it almost always requires some measure of secrecy. I do not expect General Petraeus to publicly discuss the details of every troop movement in Afghanistan any more than early Americans

expected George Washington to publish his strategy for the Battle of Yorktown. By the same token, American citizens recognize that their government may sometimes rely on secret intelligence collection methods in order to ensure national security, in order to ensure the safety of the American people, and they recognize that these methods can often be more effective when specifics are kept secret.

But while Americans recognize that government agencies sometimes rely on secret sources and methods to collect intelligence information, Americans also expect these agencies will cooperate at all times within the boundaries of publicly understood law.

I have served on the Senate Intelligence Committee for a decade, and I do not take a backseat to anybody when it comes to protecting what are essential sources and methods that are needed to keep the American people safe when intelligence is being gathered. But I do not believe the law should ever be kept secret. Voters have a right and a need to know what the law says and what their government thinks the text of the law means. That is essential so the American people can decide whether the law is appropriately written and they are in a position to ratify or reject the decisions their elected officials make on their behalf.

When it comes to most government functions, the public can directly observe the government's actions and the typical citizens can decide for themselves whether they support or agree with the things their government is doing. Certainly, in my part of the world, American citizens can visit the national forests and decide whether they think the forests are appropriately managed. When they drive on the interstate, they can decide for themselves whether those highways have been properly laid out and adequately maintained. If they see someone punished, they can decide for themselves whether the sentence was appropriate, whether it was too harsh or too lenient.

But Americans generally cannot decide for themselves whether intelligence agencies are operating within the law. That is why the U.S. intelligence community evolved over the past several decades. The Congress set up a number of watchdog and oversight mechanisms to ensure that the intelligence agencies follow the law rather than violate it. That is why the Senate and House each have a Select Intelligence Committee. It is also why the Congress created the Foreign Intelligence Surveillance Court. It is why Congress created a number of statutory inspectors general to act as independent watchdogs inside the intelligence agencies themselves. All these oversight entities were created at least in part to ensure that intelligence agencies carry out all their activities within the boundaries of publicly understood law.

But the law itself must always be public. Government officials must not be allowed to fall into the trap of secretly reinterpreting the law in a way that creates a gap between what the public believes the law says and what the government secretly claims it says. Anytime that happens, it seems to me there is going to be a violation of the public trust. Furthermore, allowing a gap of this nature to develop is simply shortsighted. Both history and logic should make it clear—and that is why I brought these examples to the floor of the Senate—that secret interpretations of the law will not stay secret forever and, in fact, often come to light pretty quickly. When the public eventually finds out that government agencies have been rewriting surveillance laws in secret, the result, as I have demonstrated, is invariably a backlash and an erosion of public confidence in these government agencies.

I believe this is a big and growing problem.

Our intelligence and national security agencies are staffed by many talented and dedicated men and women. The work they do is very important, and for the most part, they are extraordinarily professional. But when members of the public lose confidence in these agencies, it does not just undercut morale, it makes it harder for these agencies to do their jobs. If you ask the head of any intelligence agency, particularly an agency that is involved in domestic surveillance in any kind of way, he or she will tell you that public trust is the coin of the realm, it is a vital commodity, and voluntary cooperation from law-abiding Americans is critical to the effectiveness of our intelligence agencies.

If members of the public lose confidence in these government agencies because they think government officials are rewriting surveillance laws in secret, it is going to make those agencies less effective. As a member of the Intelligence Committee, I do not want to see that happen.

I wish to wrap up now with one last comment; that is, as you look at these statutes, and particularly the ones I have outlined—where you have so many hard-working lawyers and officials at these government agencies—I wish to make it clear I do not believe these officials have a malicious intent. They are working hard to protect intelligence sources and methods and for good reason. But sometimes they can lose sight of the differences between the sources and methods, which must be kept secret, and the law itself, which should not. Sometimes they even go so far as to argue that keeping their interpretation of the law secret is actually necessary because it prevents our Nation's adversaries from figuring out what our intelligence agencies are allowed to do.

I can see how it might be tempting to latch onto this ''Alice in Wonderland'' logic. But if the U.S. Government were to actually adopt it, then all our surveillance laws would be kept secret because that would, obviously, be even more useful. When Congress passed the Foreign Intelligence Surveillance Act in 1978, it would have been useful to keep that law secret from the KGB so Soviet agents would not know whether the FBI was allowed to track them. But American laws should not be public only when government officials think it is convenient. They ought to be public and public all the time. The American people ought to be able to find out what their government thinks those laws mean.

Earlier this week, I filed an amendment, along with my colleague from the Intelligence Committee, Senator MARK UDALL, and that amendment would require the Attorney General to publicly disclose the U.S. Government's official interpretation of the USA PATRIOT Act. The amendment specifically states that the Attorney General should not describe any particular intelligence collection programs or activities but that there should be a full description of ''the legal interpretation and analysis necessary to understand the . . . Government's official interpretation'' of the law.

This morning, Senator MARK UDALL and I—and we had the help of several colleagues: Senator MERKLEY, Senator TOM UDALL—reached an agreement with the chair of the Intelligence Committee, Senator FEINSTEIN. She is going to be holding hearings on this issue next month.

Senator MARK UDALL and I, as members of the committee, will be in a position to go into those hearings and the subsequent deliberations to try to amend the intelligence authorization. If we do not get results inside the committee, because of the agreement today with the distinguished chair of the Intelligence Committee, Senator FEINSTEIN, and the majority leader, Senator REID, we will be in a position to come back to this floor and offer our original amendment this fall.

We are going to keep fighting for openness and honesty. As of today, the government's official interpretation of the law is still secret—still secret—and I believe there is a growing gap, as of this afternoon, between what the public believes that law says and the secret interpretation of the Justice Department.

So I plan to vote no this afternoon on this legislation because I said some time ago that a long-term reauthorization of this legislation did require significant reforms. I believe when more Members of Congress and the American people come to understand how the PATRIOT Act has actually been interpreted in secret, I think the number of Americans who support significant reform and the end of secret law—the end of law that is kept secret from them by design—I think we will see Americans joining us in this cause to ensure that in the days ahead, as we protect our country from the dangerous threats we face, we are also doing a better job of being sensitive to individual liberty.

Those philosophies, those critical principles are what this country is all about. And we are going to stay at it, Senator UDALL and I and others, until those changes are secured.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise today in conjunction with my colleague from Oregon to discuss what is before us here on the floor, which is the extension of the PATRIOT Act.

I rise as well to express my opposition to the extension of the three most controversial provisions in the PATRIOT Act which are before us here today. The process by which we have considered these provisions has been rushed. I believe we have done a disservice to the American people by not having a fuller and more open debate about these provisions.

Along with Senator WYDEN, I want to acknowledge the difficult position the leader of the Senate, Senator REID, has been in. I want to thank him for trying to find an agreement to vote on more amendments. We were very close to reaching that agreement, but even in that context, the debate we have had on this bill has been insufficient.

If you look at what we are about to approve, it is a one-page bill which just changes the dates in the existing PATRIOT Act. This is a lost opportunity.

As a member of the Intelligence Committee, I can tell you that what most people—including many Members of Congress—believe the PATRIOT Act allows the government to do—what it allows the government to do—and what government officials privately believe the PATRIOT Act allows them to do are two different things. Senator WYDEN has been making that case. I want to make it as well.

I cannot support the extension of the provisions we are considering today without amendments to ensure there is a check on executive branch authority. I do not believe the Coloradans who sent me here to represent them would accept this extension either. Americans would be alarmed if they knew how this law is being carried out.

I appreciate the Intelligence Committee chairwoman, DIANNE FEINSTEIN, working with us to hold hearings in the committee to examine how the administration is interpreting the law. I believe that is a critical step forward. However, that addresses only the overarching concern. I still have concerns about the individual provisions we are considering today.

We just voted to invoke cloture to cut off debate on the 4-year extension of provisions that give the government wide-ranging authority to conduct wiretaps on groups and individuals or collect private citizens' records. I voted no because the debate should not be over without a real chance to improve these authorities. I recently supported a 3-month extension so the Senate could take time to debate and amend the PATRIOT Act. We were promised that debate, but that opportunity is literally slipping through our hands. I would like to stay here and continue making the case to the American people that this bill should and could be improved.

While a number of PATRIOT Act provisions are permanent and remain in place to give our intelligence community important tools to fight terrorism, the three controversial provisions we are debating, commonly known as roving wiretap, ''lone wolf,'' and business records, are ripe for abuse and threaten Americans' constitutional freedoms.

I know we must balance the principles of liberty and security. I firmly believe terrorism is a serious threat to the United States, and we must be sharply focused on protecting the American people. In fact, with my seats on the Senate Armed Services Committee and the Senate Intelligence Committee, much of my attention is centered on keeping Americans safe both here and abroad. I also recognize that despite Osama bin Laden's death, we still live in a world where terrorism is a serious threat to our country, our economy, and to American lives. Our government does need the appropriate surveillance and antiterrorism tools to achieve these important goals. However, we need to and we can strike a better balance between protecting our national security and the constitutional freedoms of our people. Let me give you an example. This debate has failed to recognize that the current surveillance programs need improved public oversight and accountability.

I know Americans believe we ought to only use PATRIOT Act powers to investigate terrorists or espionage-related targets. Yet section 215 of the PATRIOT Act, the so-called business records provision, currently allows records to be collected on law-abiding Americans without any connection to terrorism or espionage. If we cannot limit investigations to terrorism or other nefarious activities, where do they end?

Coloradans are demanding that in addition to the review of the Foreign Intelligence Surveillance Court, we place commonsense limits on government investigations and link data collection to terrorist or espionage-related activities. If—or I should say when—Congress passes this bill to extend the PATRIOT Act until 2015, it will mean that for 4 more years the Federal Government will have access to private information about Americans who have no connection to terrorism without sufficient accountability and without real public awareness about how these powers are used.

Again, I underline that we all agree the intelligence community needs effective tools to combat terrorism, but we must provide these tools in a way that protects the constitutional freedoms of our people and lives up to the standard of transparency that democracy demands.

Again, as a member of the Intelligence Committee, while I cannot say how this authority is being used, I believe it is ripe for potential abuse and must be improved to protect the constitutionally protected privacy rights of individual innocent American citizens. Toward that goal, I have worked with my colleagues to come up with commonsense fixes that can receive bipartisan support. For example, Senator WYDEN and I filed an amendment that would require the Department of Justice to disclose the official legal interpretation of the provisions of the PATRIOT Act. This would make sure the Federal Government is only using those powers in ways the American people believe they are authorizing them to.

While I believe our intelligence practices should be kept secret, I do not believe the government's official interpretation of these laws should be kept secret. This is an important part of our oversight duties, and I look forward to working with Chairwoman FEINSTEIN in the Intelligence Committee to ensure this oversight occurs.

I have also filed my own amendments to address some of the problems I see with the roving wiretap, ''lone wolf,'' and business record provisions. For example, I joined Senator WYDEN in filing an amendment designed to narrow the scope of the business records materials that can be collected under section 215 of the PATRIOT Act. And I just highlighted some of the problems with that provision. Our amendment would still allow enforcement agencies to use the PATRIOT Act to obtain investigation records, but it would also require those entities to demonstrate that the records are in some way connected to terrorism or clandestine intelligence activities.

Today, law enforcement currently can obtain any kind of records. In fact, the PATRIOT Act's only limitation states that such information has to be related to ''any tangible thing.'' That is right. As long as these business records are related to any tangible thing, the U.S. Government can require businesses to turn over information on their customers, whether or not there is a link to terrorism or espionage. I have to say that I just do not think it is unreasonable to ask that our law enforcement agencies identify a terrorism or espionage investigation before collecting the private information of law-abiding American citizens.

These amendments represent but a few of the reform ideas we could have debated this week. But without further debate on these issues, this or any other administration, whether intentionally or unintentionally, can abuse the PATRIOT Act. And because of the need to keep classified material classified, Congress cannot publicly fulfill our oversight responsibilities on behalf of the American people.

So, as I started out my remarks, I plan to vote against the reauthorization of these three expiring provisions

because we fail to implement any reforms that would sensibly restrain these overbroad provisions. In the nearly 10 years since Congress passed the PATRIOT Act, there has been very little opportunity to improve this law, and I, for one, am very disappointed that we are once again being rushed into approving policies that threaten the privacy—which, under one definition, is the freedom to be left alone—of the American people. It is a fundamental element and principle of freedom.

The bill that is before us today, in my opinion, does not live up to the balanced standard the Framers of our Constitution envisioned to protect both liberty and security, and I believe it seriously risks the constitutional freedoms of our people. By passing this unamended reauthorization, we are ensuring that Americans will live with the status quo for 4 more long years. I am disappointed and I know that many of our constituents would be disappointed if they were able to understand the implications of our inaction on these troubling issues.

As I close, I just want to say there is a gravitational pull to secrecy that I think we all have as human beings. It is hard to resist it. And the whole point of the checks and balances our Founders put in place was to ensure that power couldn't be consolidated and that power abused, again whether intentionally or unintentionally. We would all like to be king for a day. We all have ideas about how we could make the world a better place. But we know the dangers in giving that much power to one person or one small group of people.

Ben Franklin put it so well. I can't do justice to his remarks and the way he stated them, but to paraphrase him, he said that a society that would trade essential liberty for short-term security deserves neither. And our job as Senators is to ensure that we actually enjoy both of those precious qualities, security and liberty.

This is an important vote today. This is an important undertaking. I know we can, through the leadership of Senator WYDEN and many of us who care deeply about this, ensure that the PATRIOT Act keeps faith with the principles we hold dear.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The 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 (Mrs. MCCASKILL). Without objection, it is so ordered.

Mr. REID. I appreciate everyone's patience. We are working toward the end, but we are not there yet.

I ask unanimous consent that it be in order for Senator PAUL to offer two amendments en bloc and no other amendments be in order: Amendment No. 363, firearm records, and amendment No. 365, suspicious activity reports; that there be 60 minutes of debate prior to votes in relation to the amendments, with the time equally divided between Senator PAUL and the majority leader or their designees; that neither Paul amendment be divisible; that upon the use or yielding back of time, the majority leader or his designee be recognized for a motion to table; if there are not at least 60 votes in opposition to a motion to table the above amendments, the amendments be withdrawn; further, upon disposition of the two Paul amendments, amendment No. 348 be withdrawn; that all remaining time postcloture be yielded back and the Senate proceed to vote on adoption of the motion to concur in the House amendment to S. 990 with amendment No. 347; that no points of order or motions be in order other than those listed in this agreement and budget points of order and applicable motions to waive.

The PRESIDING OFFICER. Is there objection?

The Senator from Vermont,

Mr. LEAHY. Madam President, reserving the right to object, I ask unanimous consent that the agreement be modified to include the Leahy-Paul amendment with the same time for debate and a vote under the usual procedures.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, I propounded this unanimous consent request: I would comment to my friend, the chairman of the Judiciary Committee, this amendment he has suggested has bipartisan support. He has worked very hard on this. It is an amendment that we hope sometime the content of which can be fully brought before the American people because it is something that is bipartisan and timely. I would hope we can get consent to include his amendment.

The PRESIDING OFFICER. The minority leader.

Mr. MCCONNELL. I object to the Leahy request.

The PRESIDING OFFICER. Objection is heard.

Is there any remaining objection to the request of the leader?

Mr. LEAHY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor. The leader has the floor.

Mr. REID. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The 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, I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Madam President, reserving the right to object, I would first ask unanimous consent that an editorial in today's Washington Post in favor of my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 25, 2011]

A CHANCE TO PUT PROTECTIONS IN THE PATRIOT ACT

Congress appears poised to renew important counterterrorism provisions before they are to expire at the end of the week. That much is welcome. But it is disappointing that lawmakers may extend the Patriot Act measures without additional protections meant to ensure that these robust tools are used appropriately.

The Patriot Act's lone-wolf provision allows law enforcement agents to seek court approval to surveil a non-U.S. citizen believed to be involved in terrorism but who may not have been identified as a member of a foreign group. A second measure allows the government to use roving wiretaps to keep tabs on a suspected foreign agent even if he repeatedly switches cellphone numbers or communication devices, relieving officers of the obligation of going back for court approval every time the suspect changes his means of communication. A third permits the government to obtain a court order to seize ''any tangible item'' deemed relevant to a national security investigation. All three are scheduled to sunset by midnight Thursday.

House and Senate leaders have struck a preliminary agreement for an extension to June 2015 and may vote on the matter as early as Thursday morning. This agreement was not easy to come by. Several Republican senators originally wanted permanent extensions—a proposition rebuffed by most Democrats and civil liberties groups. In the House, conservative Tea Party members, who worried about handing the federal government too much power, earlier this year bucked a move that would have kept the provisions alive until December. Congressional leaders were forced to piece together short-term approvals to keep the tools from lapsing.

The compromise four-year extension is important because it gives law enforcement agencies certainty about the tools' availability. But the bill would be that much stronger if oversight and auditing requirements originally included in the version from Sen. Patrick J. Leahy (D–Vt.) were permitted to remain. Mr. Leahy's proposal, which won bipartisan approval in the Senate Judiciary Committee, required the attorney general and the Justice Department inspector general to provide periodic reports to congressional overseers to ensure that the tools are being used responsibly. Mr. Leahy has crafted an amendment that includes these protections, but it is unlikely that the Senate leadership will allow its consideration.

At this late hour, it is most important to ensure that the provisions do not lapse, which could happen as a result of a dispute between Senate Majority Leader Harry M. Reid (D–Nev.) and Sen. Rand Paul (R–Ky.) over procedural issues. If time runs out for consideration of the Leahy amendment, Mr. Leahy should offer a stand-alone bill later to make the reporting requirements the law.

Mr. LEAHY. Madam President, further reserving the right to object, I find it extremely difficult—and I have

great respect for Senator PAUL as a cosponsor of my amendment—that one more time we have a case where we could have two amendments on the Republican side and we have one that is cosponsored by both Republicans and Democrats on this side, but we can't go forward with it. We have two amendments that have not gotten any committee hearings. We have one on this side that has been voted on by a bipartisan majority, Republicans and Democrats, twice out of committee, twice on the floor, and that can't go forward.

It is my inclination to object further. I realize the difficulty that would put my friend from Nevada in, so I will not object. But I do feel this ruins the chances to make the PATRIOT Act one that could have had far greater bipartisan support, and we have lost a wonderful chance. But I understand we have to do what the Republicans want in this bill, so I will withdraw my objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, in this editorial to which the chairman of the Judiciary Committee refers, there are four very strong paragraphs indicating why his amendment is important and necessary. But in keeping with the kind of Senator we have in the senior Senator from Vermont—the final paragraph is also quite meaningful and it is meaningful because that is the kind of Senator we have from Vermont by the name of PAT LEAHY. This is the last paragraph:

> At this late hour, it is most important to ensure that the provisions do not lapse, which would happen as a result of a dispute between Senate Majority Leader Harry Reid and Senator Rand Paul over procedural issues.

Here is the final sentence, which demonstrates why PAT LEAHY is a friend of the United States and is a legend in the Senate:

> If time runs out for consideration of the Leahy amendment, Mr. Leahy should offer a stand-alone bill later to make the reporting requirements the law.

So I appreciate very much Senator LEAHY being his usual team player.

Mr. LEAHY. Madam President, if the Senator would yield for a moment, he referred to that last line that this should be offered as a freestanding bill. I assure the leader it will be offered as a freestanding bill and I hope it is one that, because of bipartisan support, could be brought up at some point for a vote.

Mr. REID. Madam President, this is an extremely important plateau we have reached. It has been very difficult for everyone. But now this bill can go to the President of the United States if these amendments are defeated, which I hope they are. It will go to the President tonight before the deadline of this bill, so this bill will not lapse. Even though the Senator from Kentucky, Mr. PAUL, and I have had some differences, what we have done on this legislation has at least helped us understand each other, which I appreciate very much, and I appreciate his working with us. It has been most difficult for him and for me.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. PAUL. I am pleased today to come to the floor of the Senate to talk about the PATRIOT Act. I am pleased we have cracked open the door that will shed some light on the PATRIOT Act. I wish the door were open wider, the debate broader and more significant, but today we will talk a little bit about the constitutionality of the PATRIOT Act.

I was a cosponsor of Senator LEAHY's amendment, and I think it would have gone many great steps forward to make sure we have surveillance on what our government does. It would have authorized audits by the inspector general to continue to watch over and to make sure government is not invading the rights of private citizens, and I do support that wholeheartedly.

Jefferson said if we had a government of angels, we wouldn't have to care or be concerned about the power that we give to government. Unfortunately, sometimes we don't have angels in charge of our government. Sometimes we can even get a government in charge that would use the power of government in a malicious or malevolent way, to look at the banking records of people they disagree with politically, to look at the religious practices of people they disagree with. So it is important that we are always vigilant, that we are eternally vigilant of the powers of government so they do not grow to such an extent that government could be looking into our private affairs for nefarious reasons.

We have proposed two amendments that we will have votes on today. One of them concerns the second amendment. I think it is very important that we protect the rights of gun owners in our country, not only for hunting but for self-protection, and that the records of those in our country who own guns should be secret. I don't think the government, well intentioned or not well intentioned, should be sifting through millions of records of gun owners. Why? There have been times even in our history in which government has invaded our homes to take things from us. In the 1930s, government came into our households and said give us your gold. Gold was confiscated in this country in 1933. Could there conceivably be a time when government comes into our homes and says, We want your guns?

People say that is absurd. That would never happen. I hope that day never comes. I am not accusing anybody of being in favor of that, but I am worried about a government that is sifting through millions of records without asking: Are you a suspect; without asking, are you in league with foreign terrorists? Are you plotting a violent overthrow of your government? By all means, if you are, let's look at your records. Let's put you in jail. Let's prosecute you. But let's not sift through hundreds of millions of gun records to find out whether you own a gun. Let's don't leave those data banks in the hands of government where someday those could be abused.

What we are asking for are procedural protections. The Constitution gave us those protections. The second amendment gives us the right to keep and bear arms. The fourth amendment is equally important. It gives us the right to be free of unreasonable search. It gives us the right to say that government must have probable cause. There must be at least some suspicion that one is committing a crime before they come into one's house or before they go into one's records, wherever one's records are. The Constitution doesn't say that one only has protection of records that are in one's house. One should have protection of records that reside in other places. Just because one's Visa record resides with a Visa company doesn't make it any less private. If we look at a person's Visa bill, we can find out all kinds of things about them. If we look at a person's Visa bill, we can find out what doctors they go to; do they go to a psychiatrist; do they have mental illness; what type of medications do they take.

If someone looked at my Visa bill, they could tell what type of books or magazines I read. One of the provisions of the PATRIOT Act is called the library provision. They can look at the books someone checks out in the library. People say, well, still, a judge has to sign these warrants. But we changed the standard. The standard of the fourth amendment was probable cause. They had to argue, or at least convince a judge, that you were a suspect, that you were doing something wrong. Now the cause or the standard has been changed to relevance. So it could be that you went to a party with someone who was from Palestine who gives money to some group in Palestine that may well be a terrorist group. But the thing is, because I went to a party with them, because I know that person, am I now somehow connected enough to be relevant? They would say, Well, your government would never do that. They would never go to investigate people. The problem is, this is all secret. So I do not know if I have been investigated. My Visa bill sometimes has been $5,000. Sometimes we pay for them over the phone, which is a wire transfer. Have I been investigated by my government? I do not know. It is secret.

What I want is protection. I want to capture terrorists, sure. If terrorists are moving machine guns and weapons in our country, international terrorists, by all means, let's go after them. But the worst people, the people we want to lock up forever—the people all of us universally agree about: people who commit murder, people who commit rape—we want to lock them up and

throw away the book, and I am all with you. But we still have the protections of the fourth amendment.

If someone is running around in the streets of Washington tonight—at 4 in the morning—and we think they may have murdered someone, we will call a judge, and we will get a warrant. Just because we believe in procedural protections, just because we believe in the Constitution does not mean we do not want to capture terrorists. We just want to have some rules.

I will give you an analogy. Right now, you have been to the airport. Most of America has been to the airport at some point in time in the last year or two. Millions of people fly every day. But we are taking this shotgun approach. We think everyone is a terrorist, so everyone is being patted down, everyone is being strip-searched. We are putting our hands inside the pants of 6-year-old children. I mean, have we not gone too far? Are we so afraid that we are willing to give up all of our liberty in exchange for security? Franklin said: If you give up your liberty, you will have neither. If you give up your liberty in exchange for security, you may well wind up with neither.

Because we take this shotgun approach, we take this approach that everyone is a potential terrorist, I think we actually are doing less of a good job in capturing terrorists because if we spent our time going after those who were committing terrorism, maybe we would spend less time on those who are living in this country, children and otherwise, frequent business travelers, who are not a threat to our country. Instead of wasting time on these people, we could spend more time on those who would attack us.

I will give you an example—the Underwear Bomber. For goodness' sakes, his dad reported him. His dad called the U.S. Embassy and said: My son is a potential threat to your country. We did nothing. He was on a watch list. We still let him get on a plane. He had been to Nigeria. He had been to Yemen twice. For goodness' sakes, why don't we take half the people in the TSA who are patting down our children and let's have them look at the international flight manifest of those traveling from certain countries who could be attacking us? For goodness' sakes, why don't we target whom we are looking at?

My other amendment concerns banking records. Madam President, 8 million banking records have been looked at in our country—not by the government. They have empowered your bank to spy on you. Every time you go into your bank, your bank is asked to spy on you. If you make a transaction of more than $5,000, the bank is encouraged to report you. If the bank does not report you, they get a large fine, to the tune of $100,000 or more. They could get 5 years in prison. They are overencouraged. The incentive is for the bank to report everyone. So once upon a time, these suspicious-activity reports were maybe 10,000 in a year. There are now over 1 million of these suspicious-activity reports.

Do I want to capture terrorists? Yes. Do I want to capture terrorists who are transferring large amounts of money? Yes. But you know what. When we are wasting time on 8 million transactions—the vast majority of these transactions being by law-abiding U.S. citizens—we are not targeting the people who would attack us.

Let's do police work. If there are terrorist groups in the Middle East and we know who they are, let's investigate them. If they have money in the United States or they are transferring it between banks, by all means, let's investigate them. But let's have some constitutional protections. Let's have some protections that say you must ask a judge for a warrant.

Some have said: How would we get these people? Would we capture those who are transferring weapons? We would investigate. We have all kinds of tools, and we have been using those tools.

Others have said: Well, we have captured these people through the PATRIOT Act, and we never could have gotten them. The problem with that argument is that it is unprovable. You can tell me you captured people through the PATRIOT Act and I can believe you captured them and you have prosecuted them, but you cannot prove to me you would not have captured them had you asked for a judge.

We have a special court. It is called the FISA Court. The FISA Court has been around since the late 1970s. Not one warrant was ever turned down before the PATRIOT Act. But they say: We need more power. We need more power given to these agencies, and we do not need any constitutional restraint anymore.

But my question is, the fourth amendment said you had to have probable cause. You had to name the person and the place. Well, how do we change, get rid of probable cause and change it to a standard of relevance? How do we do that and amend the Constitution without actually amending the Constitution? These are important constitutional questions. But when the PATRIOT Act came up, we were so frightened by 9/11 that it just flew through here. There were not enough copies to be read. There was one copy at the time. No Senator read the PATRIOT Act. It did not go through the standard procedure.

Let's look at what is happening now. Ten years later, you would think the fear and hysteria would have gotten to such a level that we could go through the committee process. Senator LEAHY's bill went to committee. It was deliberated upon. It was discussed. It was debated. It was passed out with bipartisan support. It came to the floor with bipartisan support. But do you know why it is not getting a vote now? Because they have backed us up against a deadline.

There have been people who have implied in print that if I hold up the PATRIOT Act and they attack us tonight, then I am responsible for the attack. There have been people who have implied that if some terrorist gets a gun, then I am somehow responsible. It is sort of the analogy of saying that because I believe you should get a warrant before you go into a potential or alleged murderer's house, somehow I am in favor of murder.

I am in favor of having constitutional protections. These arose out of hundreds of years of common law. They were codified in our Constitution because we were worried. We were incredibly concerned about what the King had done. We were concerned about what a far distant Parliament was doing to us without our approval. We were concerned about what James Otis called writs of assistance. Writs of assistance were pieces of paper that were warrants that were written by soldiers. They were telling us we had to house the British soldiers in our houses, and they were giving general warrants which meant: We are just going to search you willy-nilly. We are not going to name the person or the place. We are not going to name the crime you are accused of.

If a government were comprised of angels, we would not need the fourth amendment. What I argue for here now is protections for us all should we get a despot, should we someday elect somebody who does not have respect for rights. We should obey rules and laws.

Is this an isolated episode we are here talking about, the PATRIOT Act, and that there is an insufficient time, that it is a deadline: Hurry, hurry; we must act. It is not an isolated time.

We have had no sufficient debate on the war with Libya. We are now encountered in a war in Libya, so we now have a war in which there has been no congressional debate and no congressional vote. But do you know what they argue. They say it is just a little war. But you know what. It is a big principle. It is the principle that we as a country elect people. It is a principle that we are restrained by the Constitution, that you are protected by the Constitution, and that if I ask the young men and women here today to go to war and say we are going to go to war, there darn well should be a debate in this body. We are abdicating those responsibilities.

We are not debating the PATRIOT Act sufficiently. We are not having an open amendment process. It took me 3 days of sitting down here filibustering, but I am going to get two amendment votes. I am very happy and I am pleased we came together to do that. I wish we would do more. I wish Senator LEAHY's bill was being voted on here on the floor. I wish there were a week's worth of debate.

The thing is, we come here to Washington expecting these grand debates. I have been here 4 months. I expected

that the important questions of the day would be debated back and forth. Instead, what happens so often is the votes are counted and recounted and laboriously counted. When they know they can beat me or when they know they can beat somebody else, then they allow the vote to come to the floor. But some, like Senator LEAHY's bill—I am suspicious that it is not going to be voted on because they may not be able to beat it. I support it.

So the question is, Should we have some more debate in our country? We have important issues pressing on us. I have been here for 4 months, and I am concerned about the future of our country because of the debt burden, because of this enormous debt we are accumulating. But are we debating it fully? Are we talking about ways we could come together, how Republicans and Democrats, right and left, could come together to figure out this crisis of debt? No. I think we are so afraid of debate but particularly with the PATRIOT Act.

The thing with the PATRIOT Act is that it is so emotional because anyone who stands up, like myself, and says we need to have protections for our people, that we should not sift through the records of every gun owner in America, looking and just trolling through records—interestingly, we have looked at 28 million electronic records, when the inspector general looked at this—28 million electronic records. We have looked at 1,600,000 texts. If you said to me: Well, they asked a judge, and they thought these were terrorists, I do not have a problem. The judge gives them a warrant, and they look at these text messages or electronic records. But do you want them trolling through your Facebook? Do you want them trolling through your e-mails? Do you want a government that is unrestrained by law?

This ultimately boils down to whether we believe in the rule of law. So often we give lipservice to it on our side and the other side, and everybody says: We believe in the Constitution and the rule of law. When you need to protect the rule of law is when it is most unpopular. When everybody tells you that you are unpatriotic or you are for terrorism because you believe in the Constitution, that is when it is most precious, that is when it is that you need to stand up and say no.

We can fight. We can preserve our freedoms. We are who we are because of our freedoms and our individual liberty. If we give that up, we are no different from those whom we oppose. Those who wish to destroy our country want to see us dissolved from within. We dissolve from within when we give up our liberties. We need to stand and be proud of the fact that in our country it is none of your darn business what we are reading. It is none of your business where we go to see a doctor, what movie we see, or what our magazines are. It is nobody's business here in Washington what we are doing. If they think it is the business of law enforcement, get a warrant. Prove to somebody—at least have one step that says that person is doing something suspicious.

The thing is, these suspicious-activity reports—8 million of them have been filed in the last 8 years. The government does not have to ask for this; it is sort of like they have deputized the banks. The banks have now become sort of like police agencies. The banks are expected to know what is in the Bank Secrecy Act. They are expected to know thousands of pages of regulations. But do you know what they tell your bank. If you do not report everybody, if you do not report these transactions, we will fine you, we will put you in jail, or we will put you out of business.

That is a problem. It is a real problem that that is what has come of this. I think we need to have procedural protections.

Madam President, if at this point there is a request from the Senator from Illinois to yield for a question or a comment, I would be happy to, if it is about the PATRIOT Act.

OK. The amendments I will be proposing will be about two things, and we will have votes on them. We have been given the time to debate, which I am glad we fought for. We will basically be given a virtually insurmountable hurdle. This will be maybe the first time in recent history I remember seeing this, but they will move to table my amendments. In order for me to defeat the tabling motion, I will have to have 60 votes. It is similar to the votes we have when you have to overcome a cloture vote or you have to overcome a filibuster. But we really are not having any vote where there is a possibility of me winning. There is really a forgone conclusion. The votes are counted in advance.

I am proud of the fact that I fought for, though, and we got some debate on the floor and that maybe in bringing this fight, the country will consider and reconsider the PATRIOT Act. But we need to have more debate. Senator LEAHY's bill needs to be fully debated and needs to come out. Maybe when there is not a deadline, maybe it will come forward. Maybe we can have some discussion.

But I guess most of my message is that we should not be fearful. We should not be fearful of freedom. We should not be fearful of individual liberty. And they are not mutually exclusive. You do not have to give up your liberty to catch criminals. You can catch criminals and terrorists and protect your liberty at the same time. There is a balancing act. But what we did in our hysteria after 9/11 was we did not do any kind of balancing act. We just said: Come and get it. Here is our freedom, come and get it. We do not care whether there is review in Congress. We do not care whether there is to be an inspector general looking at this.

One of my colleagues today reported: Well, there is no evidence those 8 million banking investigations are bothering or doing anything to innocent people. Well, there is a reason for there being no evidence: They are secret. You are not told if your bank has been spying on you. If your bank has put in a suspicious-activity report, you are not informed of that.

So the bottom line is, just because there is no complaint does not mean there have not been abuses. There is something called national security letters. These are written by officers of the law, by FBI agents. There is no review by judges. There have been 200,000 of these. There has been an explosion of these national security letters, and we do not know whether they are being abused because they are a secret.

In fact, here is how deep the secret goes. When the PATRIOT Act was originally passed, you were not allowed to tell your lawyer. If the government came to you with an FBI agent's request, you could not even tell your lawyer. This, is very disturbing. They finally got around to changing that. But you know what. If I had an Internet service, if I am a server and they come to me with a policeman's request, and they say: Give us your records—if I tell anyone other than my attorney, I can go to jail for 5 years.

What we have is a veil of secrecy. So even if the government is abusing the powers, we will never know. How much time remains?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. PAUL. Does the Senator from Illinois wish to interject?

Mr. DURBIN. I understand there is time on the other side as well.

The PRESIDING OFFICER. There is 28 minutes on the majority side.

Mr. DURBIN. I would like to speak on the majority's time.

Mr. PAUL. I will finish up then. As we go forward on these, I would hope there would be some deliberation and that the vote, as it goes forward, people will think about that we need to balance our freedoms with our security. I think we all want security. Nobody wants what happened on 9/11 to happen again.

But I think we do not need to simplify the debate to such an extent that we simply say we have to give up our liberties. For example, I cannot tell you how many times people have come up to me in Washington, unelected officials, and said: We could have gotten Moussaoui, the 19th hijacker, if we had the PATRIOT Act.

The truth is, we did not capture Moussaoui because we had poor police work. Ask yourself: Did we fire anybody after 9/11? We gave people gold medals. We gave them medals of honor for their intelligence work after 9/11. To my knowledge, not one person was fired.

Do you think we were doing a good job before 9/11? We had the 19th hijacker in prison, in custody for a

month before 9/11. We had his computer. When they looked at Moussaoui's computer 4 days after 9/11 or the day after 9/11, they connected all of the dots to most of the hijackers and to people in Pakistan.

Why did we not look at his computer? Was it because we did not have the prerogative? They did not ask. An FBI agent in Minnesota wrote 70 letters to his superiors saying: Ask for a warrant. His superiors did not ask for a warrant. Do you think we should have done something about that after 9/11?

We gave everybody in the FBI and the CIA medals. We gave the leaders medals for meritorious service, and no one blinked an eye. What did we do? We passed the PATRIOT Act and said: Come and take our liberties. Make us safe. But to make us safe, we should not give up our rights to protect what we read, to protect what we view, to protect where we go and who we associate with. We should not allow governments to troll willy-nilly through millions of records.

You have heard of wireless wiretaps. A lot of these things are unknown because they are so secret that nobody knows. Even many of us do not even know the extent of these things. But I can tell you, there is a great deal of evidence that we were looking at millions of records and that millions of innocent U.S. citizens are having their records looked at.

Now, are we doing anything? Are we imprisoning innocent folks? No, I do not think we are doing that. I think they are good people. I think the people I have met in the FBI, the people I have met in our government want to do the right thing. But what I am fearful of is that there comes a time when we have given up these powers—for example, the constitutional discussion over war.

If we say: Well, Libya is just a small war. We do not care. We say Congress has no say in this. What happens when we get a President who decides to send 1 million troops into war and we simply say: Who cares. You know, we let the President do whatever he has to do because he has unlimited powers.

We fought a war, we fought long and hard to restrict—we wanted an Executive that was bound by the chains of the Constitution. We wanted a Presidency, an executive branch that was bound by the checks and balances. That is what our Constitution is about. It is about debate. Debate is important. Amendments are important. Bringing forward something from committee that would have reformed the PATRIOT Act is incredibly important, to have those debates on the floor of the Senate.

That is why there is a certain amount of disappointment to having arrived in Washington and to see the fear of debate of the Constitution, and that we need to be debating these things. We need to have full amendments.

Can there be any excuse why the inspector general should not be reviewing other agencies of government to find out if our rights are being trampled upon.

So I would ask, in conclusion, as these amendments come forward, that people think about it. Think about our constitutional protections. But do not go out and say the Senator from Kentucky does not want to capture terrorists or the Senator from Kentucky wants people to have guns and to attack us because the thing is, we can have reasonable philosophical debates about this, but we need to be having an open debate process. We need to talk about the constitutional protections, the provisions that protect us all, and we need to be aware of that.

I tell people: You cannot protect the second amendment if you do not believe in the fourth amendment. You cannot protect the second amendment if you do not believe in the first amendment. It is all incredibly important.

I hope as we go forward on this vote, and even though I will likely fail, because of the way the rules are set up on the vote, I hope as we go forward that at least somebody will begin to discuss this, somebody will begin to discuss where we should have some constitutional restraint; that Senator LEAHY will have a chance to bring his bill forward, and that there will be a full and open debate.

I hope we have cracked the door open and I have been a small part of that.

I yield back my time.

The PRESIDING OFFICER (Ms. KLOBUCHAR.) The Senator from Illinois.

Mr. DURBIN. Madam President, it is my understanding that we have a consent that will allow Senator PAUL to offer two amendments, and then we will go to final passage on this reauthorization of the PATRIOT Act.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. I will oppose the amendments offered by Senator PAUL, and then oppose the reauthorization of the PATRIOT Act. I would like to explain in my remarks why.

I voted for the PATRIOT Act in the year 2001. In fact, there was only one Senator on the floor—who no longer serves—who voted against it. It was a moment of national crisis. We were told then by the Bush administration they needed new authorities to make certain that America would be safe and never attacked again.

I want to salute Senator PATRICK LEAHY, as well as his counterparts on both sides of the aisle, who worked night and day to put together a bipartisan version of this PATRIOT Act and had the good sense to include in it a sunset. We knew we were writing a law with high emotion over what had happened to our country. We wanted to make sure it was a good law, but we made certain it would be temporary in nature, for the most part, and we would return and take another look at it. I cannot vote for an extension, a long-term extension, of the PATRIOT Act without additional protections included for the constitutional rights of our American citizens.

It is worth taking a moment to review the history. The PATRIOT Act was passed 10 years ago—almost 10 years ago—while Ground Zero was still burning. Congress responded and passed it with an overwhelming bipartisan vote. It was a unique moment in our history. But even then we were concerned enough to put a sunset and to do our best to review it in the future to determine whether it went too far when it came to our freedoms. I voted for it, but I soon realized that it gave too much power to government without enough judicial and congressional oversight.

So 2 years after the PATRIOT Act became law, I joined a bipartisan group of Senators in introducing the SAFE Act, legislation to reform the PATRIOT Act. The SAFE Act was supported by advocates from the left and right, from the ACLU to the American Conservatives Union. Progressive Democrats and very conservative Republicans came together across the partisan divide understanding Americans can be both safe and free.

We wanted to retain the expanded powers of the PATRIOT Act but place some reasonable limits to protect constitutional rights. When he joined the Senate in 2005, Senator Barack Obama became a cosponsor of our SAFE Act. Here is what he said as a Senator:

> We don't have to settle for a PATRIOT Act that sacrifices our liberties or our safety. We can have one that secures both.

I agree with then-Senator Obama. In 2006, the first time Congress reauthorized the PATRIOT Act, some reforms from the SAFE Act were included in the bill, and I supported it. However, many key protections from the SAFE Act were not included, so there are still significant problems.

The FBI is still permitted to obtain a John Doe roving wiretap that does not identify the person or the phone that will be wiretapped. In other words, the FBI can obtain a wiretap without telling a court who they want to wiretap or where they want to wiretap.

In garden variety criminal cases, the FBI is still permitted to conduct sneak-and-peak searches of a home without notifying the homeowner about the search until a later time. We now know the vast majority of sneak-and-peak searches take place in cases that do not involve terrorism in any way.

A national security letter, or NSL, is a form of administrative subpoena issued by the FBI. We often hear NSLs compared to grand jury subpoenas. But unlike a grand jury subpoena, a national security letter is issued without the approval of a grand jury or even a prosecutor. And unlike the grand jury subpoena, the recipient of an NSL is subjected to a gag order at the FBI's discretion.

The PATRIOT Act also greatly expanded the FBI's authority to issue

NSLs. An NSL now allows the FBI to obtain sensitive personal information about innocent American citizens, including library records, medical records, gun records, and phone records even when there is no connection whatsoever to a suspected terrorist or spy.

The Justice Department's inspector general concluded that this standard ''can be easily satisfied.'' This could lead to government fishing expeditions that target innocent people.

For years we have been told there is no reason to be concerned about this broad grant of power to the FBI. In 2003, then-Attorney General Ashcroft testified to our committee that librarians raising concerns about the PATRIOT Act were ''hysterics'' and that ''the Department of Justice has neither the staffing, the time, nor the inclination to monitor the reading habits of Americans.'' But we now know the FBI has, in fact, issued national security letters for the library records of innocent people.

For years we were told the FBI was not abusing this broad grant of power. But in 2007, the Justice Department's own inspector general has concluded the FBI was guilty of ''widespread and serious misuse'' of the national security letter's authority and failed to report these abuses to Congress and the White House.

The inspector general reported that the number of national security letter requests has increased exponentially from about 8,500 the year before enactment of the PATRIOT Act to an average of more than 47,000 per year, and even these numbers were significantly understated.

We can be safe and free. I think it is important that the measure that passed the Senate Judiciary Committee should have been on the Senate floor. It included an amendment which I offered with Senator LEAHY and other provisions which I think are an improvement over the current bill before us.

I will say one quick word about the amendment by Senator PAUL. I do not believe it is in our Nation's best interests to exempt gun records from terrorist investigations. For goodness' sake, when we are dealing with people—terrorists using guns—searching the records to make certain that we know the source of those guns and whether there are any other threats to this Nation is reasonable to do.

These should not be so sacred and sacrosanct that we do not ask the hard questions when our Nation's security is at risk. I would agree with him that we ought to make certain there is a connection between that request for gun record information and a suspected terrorist or spy. But to say these records cannot be asked for under the PATRIOT Act goes too far. That is why I will oppose his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. I rise to speak in opposition to Amendment No. 365, Senator PAUL's amendment concerning suspicious activity reports, or what is referred to as SARS.

This amendment would prevent the Department of Treasury from requiring any financial institution to submit a suspicious activity report unless law enforcement first requests the report. If this amendment should become law, it will effectively take away one of the government's main weapons in the battle against money laundering and other financial crimes.

It will also negatively impact our efforts to detect and follow the flow of funds to and from international terrorists. It is important to remember that SARS are essentially tips from third-party financial institutions concerning suspicious transactions. Because law enforcement is not watching the financial transaction of every American on a daily basis 24/7, they often have no idea that a person is even engaged in a financial crime until they receive a suspicious activity notification from a financial institution. In a sense, SARs are not much different than the tips that law enforcement often receives from anonymous sources. These tips or leads can often form the basis for initiating investigations that can be used to neutralize criminal or terrorist activities.

The problem with this amendment is that it would require the government to look into a crystal ball in order to figure out when they should request a SAR. With this logic, we should only allow law enforcement to act on an anonymous tip unless they ask for the tip to be reported first. If a law enforcement or intelligence officer doesn't get a tip about suspicious activity, how in the world is he going to know when it occurred in the first place? The answer here is simple: They will likely never know it occurred until the criminal activity has occurred, and maybe it will even go undetected.

Look, for example, at the 9/11 hijackers. There was a minimum of 12 to 13 of those individuals who came into and out of the United States over a period of time. Money was transferred to and from those individuals over a period of time. Under the requirements pre-PATRIOT Act, there was no suspicious activity detected. But after the enactment of the PATRIOT Act, there would be reason now for any financial institution to suspect the potential for suspicious activity from those transfers of moneys.

That is exactly why we did what we did in the PATRIOT Act, and that is one of the reasons why we have not seen a subsequent direct attack on U.S. soil from individuals who had been in the United States and have received money through transfers, or whatever it may be. Let's don't forget that section 215 business records cannot be obtained in an arbitrary manner. There has to be, first of all, a determination that there is some international connection between the individual whose account has been deemed suspicious by the financial institution, and also there has to be some follow-on procedure to determine that there is reason for the government to get hold of the financial records of this individual.

In my mind, this amendment would put law enforcement in an unacceptable and unreasonable position. At the same time we are asking them to pursue swindlers and money launderers more aggressively, we need to preserve the requirement that financial institutions report suspicious activities. We need to follow up on these leads not just from a criminal law enforcement perspective but from a national security perspective as well.

Since 9/11, I have been involved with the Intelligence Committee all of those years. We do extensive oversight on this particular provision in the PATRIOT Act, as well as other provisions. We have hearings on this from time to time, and we require the law enforcement officials to come in and talk to us about what they are doing. To my knowledge, there has never been one complaint or abuse that has been shown from the use of this particular provision. This particular provision is working exactly the way we intended it to work. It is a valuable tool for our law enforcement.

Let me speak also about amendment No. 363, which is Senator PAUL's amendment concerning firearms records. Simply put, this amendment would make it more difficult for national security investigators to prevent an act of terrorism inside the United States. The amendment would prohibit the use of a FISA business records court order to obtain firearms records in the possession of a licensed firearms importer, manufacturer, or dealer. Instead, national security investigators could only obtain such records through a Federal grand jury subpoena during the course of a criminal investigation or with a search warrant issued by a Federal magistrate upon a showing of reasonable cause to believe that a violation of Federal firearms laws has occurred. That might not always be possible.

For example, before MAJ Nidal Hasan began his deadly assault against innocent military and civilian personnel at Fort Hood, TX, in November 2009, there was no evidence that he had violated any criminal or Federal firearms laws. Thus, the FBI could not have relied on title 18 to obtain information about Hasan's purchase of the firearms used in the attack.

As we have since learned, however, there was likely enough intelligence information to open a preliminary investigation on Hasan because of his contacts with a known al-Qaida member in Yemen, and seek a section 215 order for information about his gun purchases. I don't understand why we would take this tool away from national security investigators, especially, here again, where there has been no indication of any abuse of this authority with respect to firearms or other sensitive records.

Congress has conducted extensive oversight of the PATRIOT Act and FISA authority, and there have been no reports of any widespread abuse or misuse, and no reports that the government has ever used these authorities to violate second amendment rights.

Moreover, the protections detailed in section 215 ensure that second amendment rights are fully respected in the use of this authority. Unlike in criminal investigations where a Federal grand jury may issue a subpoena for firearms records, any request for records under section 215 must first be approved by the Foreign Intelligence Surveillance Court. As with all other section 215 records, the court must find that such records are relevant to an authorized national security investigation. This means the FBI cannot use this authority in a domestic terrorism investigation, nor can the FBI randomly decide to see whether an ordinary citizen or even a vocal advocate of the second amendment owns a firearm.

There are two additional oversight safeguards that are built into the section 215 process. First, each request for these sensitive records by the FBI can only be approved by one of three high-level FBI officials—the Director, the Deputy Director, or the Executive Assistant Director for National Security.

Second, there are also specific reporting requirements that are designed to keep Congress informed about the number of orders issued for these types of sensitive records.

One of the big lessons we learned after the 9/11 terrorist attacks was that we needed to make sure national security investigators had access to investigative tools similar to those that have long been available to law enforcement. Section 215 of the PATRIOT Act addresses that need. It provides an alternative way to obtain business records, including firearms records, in situations where there may be a national security threat but not yet a criminal investigation or violation.

I have long been a strong supporter of the second amendment. There is nobody in this body who has a better voting record on the second amendment than I do. Probably nobody here owns as many guns as I own, but I use them for legal and lawful purposes. I will work with the National Rifle Association and any citizen group to make sure that neither this law nor any Federal law is misused to infringe on the second amendment rights of any law-abiding citizen. But this particular amendment would harm legitimate national security investigations.

I want to take a minute to read a letter I received from Chris Cox, executive director of the National Rifle Association:

DEAR SENATOR CHAMBLISS: Thank you for asking about the National Rifle Association's position on a motion to table amendment No. 363 to the PATRIOT Act. The NRA takes a back seat to no one when it comes to protecting gun owners' rights against government abuse. Over the past three decades, we fought successfully to block unnecessary and intrusive compilation of firearms-related records by several Federal agencies, and will continue to protect the privacy of our members and all American gun owners.

While well-intentioned, the language of this amendment, as currently drafted, raises potential problems for gun owners, in that it encourages the government to use provisions in current law that allow access to firearms records without reasonable cause, warrant, or judicial oversight of any kind. Based on these concerns, and the fact that the NRA does not ordinarily take positions on procedural votes, we have no position on a motion to table amendment No. 363.

For those reasons, I intend to vote against both of these amendments. While I appreciate the intent and the emotion with which my friend Senator PAUL comes to the floor to advocate, we need to make sure we get these extensions in place immediately, so we have no gap in the coverage available to our intelligence community, and that we continue to give them the tools they need to protect America and protect Americans.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. COONS. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 1114, a short-term one-month PATRIOT Act sunset extension bill, which is currently at the desk; that the bill be read the third time, and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COONS. I am disappointed my unanimous consent request was not agreed to. I wish to explain my action here today. The comments I am about to give are an explanation of a vote I intended to take later today.

As Senator CHAMBLISS said just before me, the powers of the PATRIOT Act are too important for us to risk their expiration as this body considers whether to amend them or revise them. I could not agree more.

I offered a 1-month extension in order that this body may take the time that is needed and deserved to seriously debate and conduct oversight over the PATRIOT Act. This is a significant piece of national security legislation that I believe is worthy of further consideration and debate.

Law enforcement agencies—Federal, State, and local—work day in and day out to protect all of us from real threats that go largely unknown and unnoticed by most Americans. I want law enforcement to have all the appropriate tools in their toolbox to accomplish this goal.

Unfortunately, there are also, in my view, legitimate concerns about the legislation on which we are about to vote—concerns that my colleagues and I, including the occupant of the chair, on the Judiciary Committee, reviewed and addressed in detail, and in a bill ultimately passed, S. 193, which forms the core of the Leahy-Paul amendment of which I am a cosponsor. We put those provisions before this Chamber. I am disappointed we don't have consent to move forward in order to have time to debate these reforms to the PATRIOT Act. As Americans, the choice between liberty and safety is not one or the other. We expect and demand both. Balancing the two responsibly requires careful consideration to each.

We must be cognizant of our Nation's very real enemies who intend to do us harm, just as they did on September 11. It was awareness of this danger in the world that motivated this Congress, as we have heard in previous speeches, to enact the PATRIOT Act, nearly 10 years ago now, in the wake of those attacks. A grave new threat called for bold new authorities. Though I was not then in the Senate, I likely too would have voted for its passage.

But this body's passage of that act did not amount to a permanent choice of security over liberty. Because of the broad scope of the new authorities in the PATRIOT Act, the bipartisan drafters of the bill insisted upon placing key sunset provisions in the bill to ensure that Congress periodically reviewed how they were being used and assessed whether they were still essential to our security.

Even in the unnerving weeks after 9/11—an extraordinary time in the history of this Congress and this Nation—the authors of the PATRIOT Act knew that the powers they were granting needed to be monitored.

Sunsets are critical to ensuring that the PATRIOT authorities are not abused by the government. They are critical.

It's because of sunsets that every 4 years, the FBI must return to Congress and justify its use of the PATRIOT Act overall and three provisions in particular: the roving wiretap, the lone wolf authority, and §215 orders, which allow the government to demand virtually any document or other evidence pertaining to an individual from a third party.

Sunsets only work, however, if we in Congress have the innate courage to ask the difficult questions when they arise. If, instead, Congress shies away from the tough debate and simply extends the sunsets for another 4 years, we surrender our responsibility to consider whether specific provisions should be amended, reauthorized, or allowed to expire.

If the proposed 4-year extension passes without amendment, it will have been 9 years before Congress votes on reforms to PATRIOT—9 years.

What is the point of having sunsets in this bill if we are going to ignore our oversight responsibilities?

Regretfully, I cannot support any measure that extends controversial and searching PATRIOT authorities until 2015 if this body does not first consider whether the act is in need of amendment. And so I must.

The Judiciary Committee did exactly what it is supposed to do and has worked for months on improving the PATRIOT Act ahead of this deadline. It was a difficult, bipartisan debate but the bill we produced is strong and deserved to be considered by the full body. Chairman LEAHY deserves credit for crafting a set of commonsense, responsible amendments.

In each of the last two Congresses, the Judiciary Committee reported a bipartisan PATRIOT reauthorization bill. In each case, the bills would have made important revisions to PATRIOT without compromising national security. Also in each case, the bills were reported out in plenty of time for this full body to consider them. In each case, no floor action was taken until such a late hour that meaningful debate over the expiring provisions has been precluded.

The Judiciary-reported bill, S. 193, which forms the basis of the Leahy-Paul amendment, deserves consideration. It deserves consideration because our serious consideration of reforms sends the strong message that the PATRIOT authorities are not a blank check, that we in Congress are watching closely to make sure that the use of PATRIOT is consistent with our shared national respect for individual liberty and freedom.

The Leahy-Paul amendment also deserves consideration because the last 5 years have shown us that substantive revisions to PATRIOT are called-for and, indeed, necessary. I would like to speak briefly about just one necessary change, those to the national security letter program.

National security letters, or NSLs are administrative subpoenas that allow the government to demand subscriber information from third parties without even having to go to a judge. These orders are also extraordinary in that they prohibit recipients from telling anyone of their existence.

In 2007 and 2008, the Department of Justice inspector general found massive abuses in the NSL Program, with tens of thousands of NSLs issued for purposes that had nothing to do with national security. Further, in 2008, a court found that the gag order in each NSL was unconstitutional.

Plainly, NSLs are in need of revision, both to bring them in line with the Constitution and to guard against abuses that have nothing to do with national security. I support legislation that would require that DOJ maintain sufficient internal guidelines to ensure that NSLs are only issued when the agents issuing them state facts that show relevance to national security. I also favor amending the gag order so that any recipient can immediately challenge it in court.

These simple reforms as well as the others contained in the Leahy-Paul amendment, do not make our Nation more vulnerable to attack. That is why, in 2010, the Attorney General and the Director of National Intelligence sent a letter to Congress expressing the view that legislation almost identical to Leahy-Paul ''strikes the right balance by both reauthorizing these essential national security tools and enhancing statutory protections for civil liberties and privacy in the exercise of these and related authorities.''

These reforms make our Nation more secure because they strengthen our place in the world as the cradle of liberty.

I don't want to repeal the PATRIOT Act, but at this moment we have a choice, and a chance—our last chance for 4 years—we can push forward with a bill that does nothing to improve PATRIOT—nothing to factor in everything that is changed in the last 5 years, or we can vote down this long-term extension, vote for a short-term extension and move to debate of the reforms that the Judiciary Committee has already worked up.

The PATRIOT Act is important to our national security, but I cannot support the abdication of Congress's role in strengthening it.

If I might, in summation, simply say this: If we were today to pass a 4-year extension, without amendment or revision, it will have been 9 years that Congress does not act in any substantive way on the amendments. I join Senator LEAHY in intending to vote ''no'' today, not because I believe the PATRIOT Act is fundamentally flawed or because I believe the United States doesn't face real enemies, but because I think this Congress has not taken seriously its very real oversight responsibilities, its need to strike that balance. The Judiciary Committee did that hard work. For this Congress to not amend this bill with the simple balanced and reasonable amendment offered in the Leahy-Paul amendment, I believe I am compelled to strike the balance between security and liberty on the side of liberty today, by saying this body has failed to act and to appropriately conduct thorough oversight of this bill before we send it 4 years into the future.

I yield the floor.

Mr. LEVIN. Madam President, how much time is left?

The PRESIDING OFFICER. There is 5½ minutes.

Mr. LEVIN. I thank the Chair.

Madam President, I rise in opposition to the amendment of Senator PAUL, No. 365. This amendment would effectively wipe out a critical tool used against terrorists and drug traffickers. I want to explain exactly what these suspicious activities reports are and why they are so essential to the FBI and other law enforcement people.

First of all, who uses them? FBI, organized crime units, drug trafficking task forces, border security, Secret Service, State and local police, and the intelligence community all use these SARs. Second, what are they used for? There was a report from the GAO in 2009 which said the following: How are SARs used? They gave a number of examples:

The FBI includes SAR data in its Investigative Data Warehouse to identify:

financial patterns associated with money laundering, bank fraud, and other aberrant financial activities.

Second, Organized Crime Drug Enforcement Task Force's Fusion Center combines SAR data with other data to:

produce comprehensive integrated intelligence products and charts.

Third, the IRS uses SARs to identify:

financial crimes, including individual and corporate tax frauds and terrorist activities.

We received a letter just today from the Attorney General of the United States strongly opposing this amendment of Senator PAUL, and this is what the Attorney General says:

SARs are a critical tool for our national security and law enforcement professionals. SARs are used to alert intelligence and law enforcement personnel to issues that warrant further investigation and scrutiny. The purpose of the SAR regime is to require financial institutions to report on suspicious activities based on information that is solely within their possession. Prior to the filing of a SAR, our law enforcement and intelligence analysts often are not aware that a particular bank account or individual may be associated with criminal activity or may be engaged in activities that pose a threat to national security, such as the funding of terrorist activities.

Then the Attorney General goes on:

Conditioning the filing of SARs upon a request from law enforcement would undermine this purpose. By definition, SARs are designed to alert law enforcement to information not otherwise within its possession.

The Paul amendment, No. 365, is very short, but what it does is say you must have a request of an appropriate law enforcement agency for the report before there is a requirement to file a suspicious activity report. As the Attorney General points out in his letter, that would totally undermine the purpose of the SAR requirement.

Finally, the Attorney General points out the following:

How much time do I have remaining, Madam President?

The PRESIDING OFFICER. The Senator has 2 minutes 12 seconds.

Mr. LEVIN. I thank the Chair.

The Attorney General further points out:

It is also important to note that SARs themselves are confidential under law (i.e., not available to the public) and cannot be used as evidence. They contain information that, if used by law enforcement personnel, must be further investigated and proven before adverse action is taken. The reports are only made available to law enforcement, intelligence, and appropriate supervisory agencies under applicable authorities and are subject to the protections of Federal law.

Madam President, I ask unanimous consent to have printed in the RECORD a copy of the letter from the Attorney General.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE
ATTORNEY GENERAL,
Washington, DC, May 26, 2011.

Hon. HARRY REID,
Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR LEADERS REID AND MCCONNELL: I understand that Senator Paul may offer an amendment today to S. 990 which would modify Section 5318(g)(1) of Title 31, United States Code, to allow for the issuance of Suspicious Activity Reports (''SARs'') by financial institutions ''only upon request of an appropriate law enforcement agency. . . .'' I write to express the Department's serious concerns about such an amendment.

SARs are a critical tool for our national security and law enforcement professionals. SARs are used to alert intelligence and law enforcement personnel to issues that warrant further investigation and scrutiny. The purpose of the SAR regime is to require financial institutions to report on suspicious activities based on information that is solely within their possession. Prior to the filing of a SAR, our law enforcement and intelligence analysts often are not aware that a particular bank account or individual may be associated with criminal activity or may be engaged in activities that pose a threat to national security, such as the funding of terrorist activities.

Conditioning the filing of SARs upon a request from law enforcement would undermine this purpose. By definition, SARs are designed to alert law enforcement to information not otherwise within its possession. By placing the onus on law enforcement to request information—about which it is unaware—this amendment would take away from law enforcement a critical building block of financial investigations and terrorist financing intelligence. In this way, the proposed amendment would severely undermine the usefulness of the SAR regime, and eliminate an effective tool in the fight against financial fraud and, critically, terrorism.

It is also important to note that SARs themselves are confidential under law (i.e., not available to the public) and cannot be used as evidence. They contain information that, if used by law enforcement personnel, must be further investigated and proven before adverse action is taken. The reports are only made available to law enforcement, intelligence, and appropriate supervisory agencies under applicable authorities and are subject to the protections of Federal law.

In sum, the current SARs regime is critical to our national security and law enforcement activities, while also respectful of the privacy interests of Americans.

For these reasons, I urge that the amendment not be adopted.

Sincerely,

ERIC H. HOLDER, Jr.,
Attorney General.

Mr. LEVIN. Madam President, the Paul amendment would throw out the window a legitimate and useful law enforcement tool. It has worked effectively. Three courts have said it is constitutional. I hope the Paul amendment is tabled, and I thank the Presiding Officer.

Mr. JOHNSON of South Dakota. Madam President, suspicious activity reports, or SARs, are just what they seem—reports by banks and other financial institutions when they come across obviously suspicious activity by one of their customers. They have been, and continue to be, valuable lead information for law enforcement in investigating and prosecuting terrorism, major money laundering offenses, and other serious crimes.

The Bank Secrecy Act authorizes Treasury to require financial institutions to report suspicious activity to law enforcement. In response, the Treasury Department has created an extensive and effective system for banks, casinos, securities firms, money service businesses, and other financial institutions to file SARs that are regularly reviewed by law enforcement.

SARs are used by the FBI, organized crime units, drug trafficking task forces, border security, Secret Service, State and local police, and more. They have enabled the prosecution of a great number of serious crimes over the years.

Law enforcement agencies use SAR data daily to fight terrorist financing, money laundering, drug trafficking, corruption, financial fraud, mortgage fraud, and illicit money flows of all types. A 2009 GAO report gave these examples of how SARs are used:

FBI includes SAR data in its Investigative Data Warehouse to identify ''financial patterns associated with money laundering, bank fraud, and other aberrant financial activities.'' It uses SAR data to investigate ''criminal, terrorist, and intelligence networks.''

The Organized Crime Drug Enforcement Task Force's Fusion Center combines SAR data with other data to ''produce comprehensive integrated intelligence products and charts.''

The IRS uses SARs to identify ''financial crimes, including individual and corporate tax frauds, and terrorist activity.''

The Secret Service uses SAR data to ''map and track trends in financial crimes.''

Sharply restricting current law and longstanding practice, this amendment would only authorize the reporting of SARs after a law enforcement agency makes a specific request of a bank, money service business, or other entity, which would in turn require a demonstration that suspicious activity already exists, rendering a SARS filing moot.

It would basically turn SARs reporting upside down by requiring law enforcement to establish the basis for an investigation before requesting a SAR, rather than relying upon a SAR to initiate or supplement an investigation that would then lead to a search warrant or subpoena.

So instead of being used as leads, flagging drug or terrorism-related or money laundering activity for law enforcement, under the amendment SARSs would simply confirm suspicious activity. That would severely degrade their value, which is to make law enforcement aware of potential criminal activity.

If the United States were to disable its SAR reporting system by requiring individual requests for SAR reports, it would invite the worst of criminals to misuse U.S. financial institutions for their schemes, knowing their activities would not automatically be reported to law enforcement. It makes no sense, especially in a context where there is no serious claim that these legal authorities have been misused.

How does the system work now, as a practical matter? Let's say a drug dealer comes into a bank with $9,000 in cash and the cash reeks of marijuana. Under current law, the teller is trained to flag that transaction, and compliance officers in the bank's back office would assess it and likely file a SAR, to be examined by law enforcement.

Let's say that the same person does this in four or five banks in town that same afternoon, with the same amounts, structured to be just below reporting limits, reeking of marijuana. Now he is effectively laundered almost $50,000 in one day. I would say we at least want to know about that, and the system now enables that. Under this amendment, that would all go by the boards.

Let's say the person is a terrorist conspirator or arms proliferator. Same scenario, only this time with a twist—a series of large structured cash deposits in a series of banks here on the same day, that are then the next day wired to the same overseas account in Pakistan or Afghanistan or Iraq, withdrawn by a coconspirator there, and used to buy IEDs to hit U.S. troops.

Would we not want those transactions at least flagged by responsible bank officials and assessed for patterns? I think so, and I think my colleagues will agree.

If the thresholds in this amendment were implemented, very few SARs would be filed because there would be no reason for law enforcement to request that SARs be filed after identifying suspicious activity by other means. Law enforcement would instead obtain a search warrant to obtain all relevant information—i.e., the underlying bank records—from the financial institution.

The amendment would also cause the United States to be in noncompliance with international anti-money laundering and terrorist financing standards—for instance, the recommendations of the Financial Action Task Force, FATF, which require suspicious activity reporting when a financial institution has reasonable grounds to suspect criminal activity.

This is a very serious problem. For years other countries have looked to us for guidance and best practices on these issues. This amendment would make the United States an outlier bank secrecy jurisdiction.

SARs themselves do not unreasonably impinge on personal privacy. The reports are confidential and cannot be used as evidence. They contain allegations that must be further investigated and proven before adverse action is taken by law enforcement.

The reports are only made available to law enforcement, intelligence, and appropriate supervisory agencies under applicable authorities and are subject to the protections of the Federal Privacy Act.

I urge my colleagues to oppose this unwise and ill-conceived amendment.

Mr. UDALL of New Mexico. Mr. President, today's vote to extend expiring provisions of the so-called PATRIOT Act is not the first time Congress has extended the sunset provisions, nor will it be the last. In 2006, the USA PATRIOT Improvement and Reauthorization Act was passed and, among other things, extended until December 2009 the three provisions we are discussing today. When those provisions were set to expire, a 3-month extension was included in the Department of Defense Appropriations Act. Three months later, Congress passed a 1-year extension until February 2011. As that deadline loomed, and without sufficient time to have a real debate, we passed the extension that expires at midnight tonight.

Immediately after the terrorist attacks of 9/11, it may have been understandable that our emotions made it unlikely that we would have a rationale and deliberative debate about the PATRIOT Act. But at the time, as I voted against the bill, I said on the House floor that ''the saving grace here is that the sunset provision forces us to come back and to look at these issues again when heads are cooler and when we are not in the heat of battle.''

But that hasn't happened. Each time a sunset date nears, we hear a lot of highly charged rhetoric from Members in both parties and in both Chambers of Congress about how devastating it will be to our national security if we let the PATRIOT Act expire. I find this to be deeply disturbing because it demonstrates that 10 years after the attacks on 9/11 we are still using fear to prevent an open and honest debate.

Let's put this rhetoric aside and discuss the facts. First, the PATRIOT Act is not about to expire. Three provisions of the law are set to expire, but the vast majority of the authorities contained in the law will remain unchanged.

Two of the expiring provisions were enacted as part of the PATRIOT Act. Section 206 of the act amended FISA to permit multipoint, or ''roving,'' wiretaps. Section 215 enlarged the scope of materials that could be sought under FISA to include ''any tangible thing.'' It also lowered the standard required before a court order may be issued to compel their production. The third provision was enacted in 2004 as part of the Intelligence Reform and Terrorism Prevention Act, IRTPA. This provision changed the rules regarding the types of individuals who may be targets of FISA-authorized searches. Also known as the ''lone wolf'' provision, it permits surveillance of non-U.S. persons engaged in international terrorism without requiring evidence linking those persons to an identifiable foreign power or terrorist organization.

Let's also be clear about what would happen if these provisions did expire. The two provisions from the PATRIOT Act that amended FISA authorities would read as they did before the PATRIOT Act was passed in 2001. That means they would not be revoked completely but instead would be more limited in scope. And what would happen if the ''lone wolf'' provision expired? Not much. In the 7 years since its enactment, it is never been used.

Even if the provisions expire, they contain exceptions for ongoing investigations, and the government can continue to use those provisions beyond the sunset date. This is what a recent CRS report says about this:

> A grandfather clause applies to each of the three provisions. The grandfather clauses authorize the continued effect of the amendments with respect to investigations that began, or potential offenses that took place, before the provision's sunset date. Thus, for example, if a non-U.S. person were engaged in international terrorism before the sunset date of May 27, 2011, he would still be considered a ''lone wolf'' for FISA court orders sought after the provision has expired. Similarly, if an individual is engaged in international terrorism before that date, he may be the target of a roving wiretap under FISA even after authority for new roving wiretaps has expired.

Those are pretty broad exceptions, and I am fairly confident that our ability to protect the Nation would continue even if the three provisions expire. So let's put the hyperbole aside and not stoke irrational fears for political expediency.

I am very disappointed that we couldn't have a candid debate and an opportunity to vote on several amendments. With a decade of hindsight, more voices from very different places on the political spectrum agree that the entire law bears scrutiny and debate. We should no longer neglect our duty to review the full scope of a law with such serious constitutional challenges before rushing to reauthorize it, again.

Mr. GRASSLEY. Madam President, I support a clean reauthorization of the expiring provisions of the USA PATRIOT Act and against Senator PAUL's amendment on firearms records. Over the years, I have always supported and defended the second amendment. I have consistently voted to ensure that the Federal Government does not limit the constitutional rights of the millions of American gun owners. I cannot support the amendment offered today by Senator PAUL because it will damage the prospects of ensuring that critical national security laws are not reauthorized and could potentially hurt the second amendment rights of American citizens. In fact, the National Rifle Association said today in a vote alert, ''While well-intentioned, the language of this amendment as currently drafted raises potential problems for gun owners, in that it encourages the government to use provisions in current law that allow access to firearms records without reasonable cause, warrant or judicial oversight of any kind.''

Senator PAUL's amendment actually removes protections from firearms owners. Currently, under the PATRIOT Act, in order to obtain firearms records, investigators must first go through a rigorous application process and then seek a Federal judge's approval. Senator PAUL's amendment would remove this judicial review.

If Senator PAUL's amendment became law and removed judicial review, investigators would then use a grand jury subpoena in order to obtain the records. A grand jury subpoena is a process that has neither a rigorous approval process, nor judicial review. Thus, Senator PAUL's amendment, while intending to protect second amendment rights, actually backfires in that effort.

First, let's talk about the rigorous approval process that controls whether firearms records can be obtained under the PATRIOT Act. And remember, this process does not exist under criminal law when using a grand jury subpoena. To obtain gun records under the PATRIOT Act, a section 215 order is used. The use of section 215 orders has been reviewed by the Department of Justice Office of Inspector General, which issued a report in March 2007 that outlined the existing process; that is, the 10 layers of review before it is even sent to a Federal judge are as follows:

No. 1, the FBI field agent.

No. 2, the FBI field office supervisor.

No. 3, the field office's Special Agent in Charge.

No. 4, the field office's District Counsel.

No. 5, it is then forwarded to FBI headquarters, where it is reviewed by a National Security Law Branch lawyer.

No. 6, the National Security Law Branch Supervisor.

No. 7, the request is then sent to the Department of Justice's Office of Intelligence for review by a lawyer.

No. 8, if the request survives these seven approvals, the request is sent back to the field office for an accuracy review.

No. 9, the request is then approved by an Office of Intelligence supervisor.

No. 10, then one of the three highest ranking officials in the FBI must personally approve the request, either the Director, the Deputy Director, or the Executive Assistant Director for National Security.

After approval by the field office, the FBI's National Security Law Branch, the DOJ's Office of Intelligence, the field office again, and finally by one of the three highest officials of the FBI, then an Office of Intelligence lawyer presents the application package to the court for approval.

A federally appointed district judge, serving on the Foreign Intelligence Surveillance Court, FISA, reviews the request and holds a hearing. At this hearing, the court can ask questions and make any changes the independent judge deems appropriate. If approved, the signed order is then returned to the FBI field office to be served by the agent.

This is a very long process, and it takes, on average, over 140 days to get

a section 215 order. It requires 11 separate approvals before any records could be obtained. Yet Senator PAUL's amendment will completely eliminate this investigative tool. A section 215 order provides greater protections of second amendment rights than the alternative, which is a grand jury subpoena as part of a criminal investigation.

The alternative method of obtaining firearms records is a grand jury subpoena. It is rarely used as an alternative in the national security context. First, investigators must have a criminal nexus before it can seek a grand jury subpoena. This means there must be either criminal activity or a Federal firearms violation. Sometimes, when investigating terrorism, no criminal nexus exists. Senator PAUL's amendment would prevent obtaining gun records in foreign intelligence investigations that have no criminal nexus.

More often, a suspected terrorist comes across our radar long before he ever does anything that would rise to the level of a criminal violation. Senator PAUL's amendment would mean that the FBI could not get information that a suspected terrorist is legally buying firearms until after he actually takes the shot or does something else criminal. At this point, it is too late to prevent an act of terrorism from occurring.

It does not make any sense to allow criminal investigators access to firearms records but prohibit terrorism investigators the same access. That scenario is why we in Congress acted to amend the law following 9/11. This is simply another attempt to rebuild ''the wall'' between intelligence and criminal law that caused the failure connecting the dots prior to 9/11.

Remember, these sorts of records are crucial to the early stages of a terror investigation. It allows the government to connect the dots. This authority can only be used with prior approval from a Senate-confirmed, lifetime-appointed, independent, article 3, Federal district court judge. I am not sure how many more times I need to repeat the fact, that records are only provided after judicial review.

Those who claim that there are no controls have not read or have not understood the law.

I trust an independent judge who can, and will, say no if legal requirements are not met, if a request appears to over-reach, or if the law does not allow it.

Judicial review is one very important safeguard in place every time a section 215 order is requested, which is the tool to request firearms records. This safeguard is over and above those that exist in criminal cases. A vote for the Paul amendment is a vote to take away this judicial review.

No judge reviews a grand jury subpoena before it is issued. Yet, in more serious, national security cases, to obtain firearms records, a judge must approve the request and issue an order. That means it is more difficult to obtain records with a section 215 order in a national security case than it is in a less serious criminal case with a grand jury subpoena.

I don't know why we insist on making it harder to investigate acts of terrorism than to investigate fraud and illegal drugs.

Section 215 orders offer more protection than what the Constitution requires. The Supreme Court, in U.S. v. Miller, has held that business records, such as banking deposit slips or car rental records or firearms records, are not subject to fourth amendment protections because the customer has no reasonable expectation of privacy in documents that are in the possession of third parties.

The constitutional argument that a section 215 order is an unreasonable search in violation of the fourth amendment is completely contrary to what the Supreme Court has been saying for over 35 years. Thus, section 215 orders offer greater protection than what the Constitution requires.

There are no reported abuses of section 215 orders. And if this tool was being abused, people know that I would be eager to hold investigators accountable.

In fact, I will pledge to work with all groups and supporters of the second amendment, such as the National Rifle Association, to ensure that PATRIOT Act authorities are not used to circumvent existing prohibitions on obtaining U.S. citizen gun records. I support the goal Senator PAUL is trying to achieve, namely protecting the constitutional rights of all gun owners. However, his amendment goes too far.

I urge my colleagues to oppose amendment 363 and support a clean extension of the expiring PATRIOT Act authorities.

Mr. REID. Madam President, although the PATRIOT Act is not a perfect law, it provides our intelligence and law enforcement communities with crucial tools to keep our homeland safe and thwart terrorism. While I am disappointed we were not able to include any of the sensible oversight and civil liberties protections included in the bill reported by the Judiciary Committee with bipartisan support, I strongly support the Senate's effort to ensure that these important authorities do not expire.

The raid that killed Osama bin Laden also yielded an enormous amount of new information that has spurred dozens of investigations yielding new leads every day. Without the PATRIOT Act, investigators would not have the tools they need to follow these new leads and disrupt terrorist plots, putting our national security at risk.

Finally, we have worked expeditiously to pass this legislation to reauthorize these critical intelligence tools. If for some reason this bill is not enacted before May 27 and there is a brief lapse in the authorities, there should be no doubt that it is Congress's intent that this bill reauthorizes the authorities in their current form and does so until June 2015.

How much time remains, Madam President?

The PRESIDING OFFICER. There is 1 minute 22 seconds.

Mr. REID. Who controls that time?

The PRESIDING OFFICER. The time is controlled by the majority, and the Senator from Kentucky controls 2 minutes 22 seconds.

Mr. PAUL. Madam President, I am happy to yield back the remainder of my time.

Mr. REID. I yield back the majority time.

AMENDMENTS NOS. 363 AND 365 TO AMENDMENT NO. 347

Mr. REID. Madam President, I move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. PAUL] proposes en bloc amendments numbered 363 and 365.

The amendments are as follows:

AMENDMENT NO. 363

(Purpose: To clarify that the authority to obtain information under the USA PATRIOT Act and subsequent reauthorizations does not include authority to obtain certain firearms records)

At the appropriate place, insert the following:

SEC. ___. FIREARMS RECORDS.

Nothing in the USA PATRIOT Act (Public Law 107–56; 115 Stat. 272), the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 120 Stat. 192), the USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 (Public Law 109–178; 120 Stat. 278), or an amendment made by any such Act shall authorize the investigation or procurement of firearms records which is not authorized under chapter 44 of title 18, United States Code

AMENDMENT NO. 365

(Purpose: To limit suspicious activity reporting requirements to requests from law enforcement agencies, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SUSPICIOUS ACTIVITY REPORTS.

Section 5318(g)(1) of title 31, United States Code, is amended by inserting before the period at the end the following: '', but only upon request of an appropriate law enforcement agency to such institution or person for such report''.

Mr. REID. Madam President, I move to table amendment No. 363 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

Mr. REID. Madam President, I am not sure I was heard earlier. I ask unanimous consent that this vote be 15 minutes and the rest 10 minutes.

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) and the Senator from New York (Mr. SCHUMER) would each vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. ROBERTS) and the Senator from Florida (Mr. RUBIO).

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

The result was announced—yeas 85, nays 10, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—85

Akaka	Gillibrand	Merkley
Alexander	Graham	Mikulski
Ayotte	Grassley	Murkowski
Begich	Hagan	Murray
Bennet	Harkin	Nelson (NE)
Bingaman	Hatch	Nelson (FL)
Blunt	Hoeven	Portman
Boozman	Hutchison	Pryor
Boxer	Inhofe	Reed
Brown (MA)	Inouye	Reid
Brown (OH)	Isakson	Risch
Burr	Johanns	Rockefeller
Cantwell	Johnson (SD)	Sanders
Cardin	Johnson (WI)	Sessions
Carper	Kerry	Shaheen
Casey	Kirk	Snowe
Chambliss	Klobuchar	Stabenow
Coats	Kohl	Thune
Coburn	Kyl	Toomey
Cochran	Landrieu	Udall (CO)
Collins	Lautenberg	Udall (NM)
Conrad	Leahy	Vitter
Coons	Levin	Warner
Corker	Lieberman	Webb
Cornyn	Lugar	Whitehouse
Crapo	Manchin	Wicker
Durbin	McCain	Wyden
Feinstein	McCaskill	
Franken	McConnell	

NAYS—10

Barrasso	Heller	Shelby
Baucus	Lee	Tester
DeMint	Moran	
Enzi	Paul	

NOT VOTING—5

Blumenthal	Roberts	Schumer
Menendez	Rubio	

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 10. Under the previous order, 60 votes not having been cast in opposition to the motion to table, the amendment is withdrawn.

The majority leader.

AMENDMENT NO. 365

Mr. REID. Is amendment No. 365 pending?

The PRESIDING OFFICER. That is the pending amendment.

Mr. REID. Madam President, I move to table the pending Paul amendment No. 365, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) and the Senator from New York (Mr. SCHUMER) would each vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. ROBERTS) and the Senator from Florida (Mr. RUBIO).

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

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—91

Akaka	Franken	Mikulski
Alexander	Gillibrand	Moran
Ayotte	Graham	Murkowski
Barrasso	Grassley	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Hatch	Portman
Bingaman	Hoeven	Pryor
Blunt	Hutchison	Reed
Boozman	Inhofe	Reid
Boxer	Inouye	Risch
Brown (MA)	Isakson	Rockefeller
Brown (OH)	Johanns	Sanders
Burr	Johnson (SD)	Sessions
Cantwell	Johnson (WI)	Shaheen
Cardin	Kerry	Shelby
Carper	Kirk	Snowe
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Tester
Coats	Kyl	Thune
Coburn	Landrieu	Toomey
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Vitter
Coons	Lieberman	Warner
Corker	Lugar	Webb
Cornyn	Manchin	Whitehouse
Crapo	McCain	Wicker
Durbin	McCaskill	Wyden
Enzi	McConnell	
Feinstein	Merkley	

NAYS—4

DeMint	Lee
Heller	Paul

NOT VOTING—5

Blumenthal	Roberts	Schumer
Menendez	Rubio	

The PRESIDING OFFICER. Under the previous order, 60 votes not having been cast in opposition to the motion to table, the amendment is withdrawn.

Under the previous order, amendment No. 348 is withdrawn.

All postcloture time is yielded back.

The question is on agreeing to the motion to concur with amendment No. 347 to the House amendment to S. 990.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from New York (Mr. SCHUMER), are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) and the Senator from New York (Mr. SCHUMER) would each vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. ROBERTS) and the senator from Florida (Mr. RUBIO).

The PRESIDING OFFICER (Mr. FRANKEN). Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 23, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—72

Alexander	Gillibrand	McCaskill
Ayotte	Graham	McConnell
Barrasso	Grassley	Mikulski
Bennet	Hagan	Moran
Blunt	Hatch	Nelson (NE)
Boozman	Hoeven	Nelson (FL)
Boxer	Hutchison	Portman
Brown (MA)	Inhofe	Pryor
Burr	Inouye	Reed
Cardin	Isakson	Reid
Carper	Johanns	Risch
Casey	Johnson (SD)	Rockefeller
Chambliss	Johnson (WI)	Sessions
Coats	Kerry	Shaheen
Coburn	Kirk	Shelby
Cochran	Klobuchar	Snowe
Collins	Kohl	Stabenow
Conrad	Kyl	Thune
Corker	Landrieu	Toomey
Cornyn	Levin	Vitter
Crapo	Lieberman	Warner
DeMint	Lugar	Webb
Enzi	Manchin	Whitehouse
Feinstein	McCain	Wicker

NAYS—23

Akaka	Franken	Murray
Baucus	Harkin	Paul
Begich	Heller	Sanders
Bingaman	Lautenberg	Tester
Brown (OH)	Leahy	Udall (CO)
Cantwell	Lee	Udall (NM)
Coons	Merkley	Wyden
Durbin	Murkowski	

NOT VOTING—5

Blumenthal	Roberts	Schumer
Menendez	Rubio	

The motion was agreed to.

VOTE EXPLANATION

Mr. MENENDEZ. Mr. President, I was unavoidably detained for rollcall vote No. 82, a vote on the motion to table the Paul amendment No. 363 related to firearm records. Had I been present, I would have voted ''yea'' to the motion to table the amendment.

Mr. President, I was also unavoidably detained for rollcall vote No. 83, a vote on the motion to table the Paul amendment No. 365 related to suspicious activity reports. Had I been present, I would have voted ''yea'' to the motion to table the amendment.

Mr. President, further I was unavoidably detained for rollcall vote No. 84, adoption of the motion to concur in the House amendment to S. 990 with the Reid amendment #347, PATRIOT Act extension. Had I been present, I would have voted ''yea.''

Mr. BLUMENTHAL. Mr. President, I was unavoidably absent during today's vote to extend three expiring provisions of the PATRIOT ACT, due to my son's college graduation. I voted to extend these provisions earlier this year when this legislation was before the Senate Judiciary Committee. Had I been able to attend today's vote, I would have voted again with the majority to extend these provisions.

Additionally, I would have voted to table amendment No. 363, which would have prohibited the use of any PATRIOT Act authorities to investigate or procure records relating to firearms. I would also have voted to table

amendment No. 365, which would have sharply curtailed existing rules that help the Treasury track the financial activities of terrorists.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, there will be no more votes today. That was the last vote for this week. We will have a vote on the Monday we get back in the evening at around 5 o'clock.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 8 p.m. tonight, with Senators permitted to speak for up to 10 minutes each; further, that Senator MURRAY now be recognized to speak for 4 minutes, and following her remarks, Senator INHOFE be recognized until 6:15 p.m., Senator DURBIN then be recognized for up to 10 minutes, and following that Senator COBURN be recognized for up to 45 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I think that may get us past 8 o'clock. I have not done the math but however long that takes.

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

The Senator from Washington.

MEMORIAL DAY

Mrs. MURRAY. Mr. President, I come to the floor to honor and commemorate the men and women who died fighting for our great country.

Memorial Day is a day to honor those American heroes who made the ultimate sacrifice for our Nation. It is because of their sacrifice that we can safely enjoy the freedoms our great country offers. It is because of their unmatched commitment that America can remain a beacon for democracy and freedom throughout the world.

Memorial Day is a day of remembrance, but it is also a day of reflection. When our brave men and women volunteered to protect our Nation, we promised them we would take care of them and their families when they return home.

On this Memorial Day, we need to ask ourselves: Are we doing enough for our Nation's veterans? Making sure our veterans can find jobs when they come back home is an area where we must do more.

For too long, we have been investing billions of dollars training our young men and women to protect our Nation, only to ignore them when they come home. For too long, we have patted them on the back and pushed them into the job market with no support. That is simply unacceptable, and it does not meet the promise we made to our servicemembers.

Our hands-off approach has left us with an unemployment rate of over 27 percent among young veterans coming home from Iraq and Afghanistan. That is 1 in 5 of our Nation's heroes who cannot find a job to support their family and who do not have an income to provide the stability that is so critical to their transition home.

That is exactly why earlier this month I introduced the Hiring Heroes Act of 2011, which is now cosponsored by 17 Senators and has garnered bipartisan support. This legislation will rethink the way we support our men and women in uniform when they come home to look for a job.

I introduced this critical legislation because I have heard firsthand from so many veterans that we have not done enough to provide them with the support they need to find work.

I have heard from medics who return home from treating battlefield wounds who cannot get certification to be an EMT or drive an ambulance. I have heard from veterans who tell me they no longer write that they are a veteran on their resume because they fear the stigma they believe employers attach to the invisible wounds of war.

These stories are heartbreaking and they are frustrating. But more than anything, they are a reminder that we have to act now.

My legislation will allow our servicemembers to capitalize on their service. For the first time, it will require broad job skills training for anyone leaving the military as part of the military's Transition Assistance Program. Today, over one-third of those leaving the Army do not get any of that training.

My bill will also require the Department of Labor to take a hard look at what military skills and training should be translatable into the civilian sector and will work to make it simpler to get those licenses and certifications our veterans need.

All of these are real, substantial steps to put our veterans to work. All of them come at a pivotal time for our economic recovery and our veterans.

I grew up with the Vietnam war. I have dedicated much of my Senate career helping to care for the veterans we left behind that time. The mistakes we made then cost our Nation and our veterans dearly. Today, we risk repeating those mistakes. We cannot let that happen again.

Our Nation's veterans are disciplined, they are team players who have proven they can deliver under pressure like no one else. So let's not let another year and another Memorial Day go by without us delivering for them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that my time that would expire at 6:15 be extended to 6:30, and other times adjusted accordingly.

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

ISRAEL'S BORDERS

Mr. INHOFE. Mr. President, a few weeks ago I had the opportunity to visit with one of my true heroes, Benjamin Netanyahu, who was here and graced us with his presence this week. Last March, I was in Jerusalem, had some quality time with him, and we kind of relived the experiences we have had in the past when he was Prime Minister before. That was back in the middle 1990s. I had a chance to talk to him. As I recall, his concern at that time—what he said at that time—two major concerns. One is, what is happening in Iran, and then, of course, making sure that the land in Israel right now will stay there.

Recently, I had a chance to visit with him again. I was quite surprised when he came here and he was met with this suggestion that things are going to change and that maybe we would encourage Israel to go back to their 1967 borders.

I can assure you that we will do everything we can to keep that from happening. I want to make sure we get the message out there, that this may be President Obama talking, it is not the majority of people in America, as was witnessed by the 30 standing ovations that Prime Minister Netanyahu got in his joint speech.

It sounded familiar when we are talking about this, about the land. I remembered that it was 10 years ago—10 years ago right now, 2001—that I made a speech, and it jogged my memory when I heard the President talking about going back to the 1967 borders. So I dug up that speech. I found it, and I found that it is so appropriate today.

This was a speech, by the way—the research done for this speech was done by a guy named Willie George. He was a preacher, a pastor, but a historian. I want to put the same perspective on this we did 10 years ago and see how that applies today.

First of all, I am going to do something that is unusual on the floor of the Senate; that is, I am going quote Ephesians 6. Listen carefully. It says: For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of darkness of this world, against spirit wickedness in high places.

It is significant that we look at that, because make no mistake about it, the war that was started 10 years ago and the war we are in right now, that we are fighting now, is first and foremost a spiritual war, not a political war—never has been a political war. It is not about politics. It is a spiritual war. It has its roots in spiritual conflict. It is a war to destroy the very fabric of our society and the very things for which we stand.

Many of the wars in history are wars where people are trying to take over something another country has. That is not what this is about. Not about getting mineral deposits, not about getting land from other countries. This is a different war.

It is not simple greed that motivates these people to kill. One may ask, what is it about our Nation that makes