

cuts that the House made to the child support enforcement program. Perhaps some of my colleagues would like to speak on this matter, and so I will keep my comments brief.

I would hope that this would be a simple vote for my colleagues. The Senate needs to send a strong message to conferees that the cuts the House supported are unacceptable. I would like to remind my colleagues what those cuts are, and what they mean. The House slashes funding for the child support enforcement program by 10 percent, which is nearly \$16 billion which will be cut in the next 10 years. In addition, the House language prevents States from drawing down Federal funds based on their performance incentive payments.

What does that mean for States, and more importantly, what will it mean for hard working American families? According to the Congressional Budget Office, the House cuts will reduce child support collections by nearly \$7.9 billion in the next 5 years and \$24.1 billion in the next 10 years. My State stands to lose \$308 million in Federal funding over the next 10 years, and will lose approximately \$468 million in child support collections.

Cutting the child support enforcement program is counterproductive. It means cutting one of the most successful, cost-effective Federal programs in existence. In 2004, the program collected \$21.9 billion, while total costs were kept at \$5.3 billion, which is greater than a \$4 dollar return on every dollar the Federal Government invested. In fact, collections are rising faster than expenditures. Child support programs are increasing their cost-efficiency.

Being cost-effective, however, is not the greatest achievement of the child support program. Sixty percent of all single parent families participate in the child support program, and participants are primarily former welfare families or working families with modest incomes. It is proven that the child support program directly increases self-sufficiency and that families receiving child support are more likely to leave welfare and less likely to return. So these cuts have no place in a deficit-reducing measure. If congress cuts this program, it will ultimately push more people onto other Federal aid programs.

I would also like to remind my colleagues that the Senate already has a strong record on this issue. Two weeks ago we unanimously adopted an amendment offered by Senator HARKIN, a sense of the Senate in opposition to these cuts. Members from both sides of the aisle have consistently opposed the cuts, with the backing of a number of groups, ranging from the National Governors Association to the Information Technology Association of America.

I strongly urge my colleagues to find out how these cuts will affect their constituents, and would urge them to vote based on the families these cuts will impact.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. SESSIONS. Mr. President, I ask unanimous consent to speak as in morning business.

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

PATRIOT ACT

Mr. SESSIONS. Mr. President, if other matters come up, I would be pleased to conclude my remarks and yield to others who may be speaking relative to the reconciliation matter. But I want to talk at this time about the PATRIOT Act, and I want to go straight to the heart of the complaint that we have had against it by first observing that most of the complaints that we have heard, from my perspective, are emotive. They are not specific. Generally, they boil down to say we can't allow our liberties to be eroded out of fear that the terrorists would win—words to that effect. Certainly, that is true. There is no doubt about that.

Some contend that we have rushed into the PATRIOT Act, that all facts were not considered, that the bill was moved rapidly, and they suggest that provisions dangerous to our liberties were placed in the PATRIOT Act as a result of the emotions that arose after 9/11. But that is not true. I was on the Judiciary Committee when all of this occurred. I remember the debate that occurred. This legislation was carefully drafted. The best minds in our country participated. The Judiciary chairman, ORRIN HATCH, and his ranking member, Senator PATRICK LEAHY, deserve great credit for that. The U.S. Department of Justice was engaged, groups from the left and the right, civil liberties groups, the American Civil Liberties Union. All of those groups knew what was being considered. They had an opportunity to and did comment on the language.

The Senate gave it careful attention, and the legislation moved. But it took some time for it to move. We spent a great deal of time considering the language. Anything that raised the slightest possibility of being abused, or even some theoretical fear that it could somehow be abused, was considered carefully. Every line was examined. Every word was examined. Words and lines and provisions were altered continually to address the concerns and fears some people had.

Law enforcement procedures long used and long approved by the Supreme Court were attacked during this process as somehow violating the fundamental liberties of Americans.

It was breathtaking to me as a prosecutor of over 15 years to hear some of the charges being raised against practices that amount to nothing more than standard police procedure which are done in every State and every county in America. It was attacked as something that was somehow going to destroy the liberties that this country takes so seriously.

It is OK, I would say. That is good debate. It is a free country, and maybe it is good that our watchdogs are ever ready to point out any error. And perhaps some of the changes we made were better as a result of complaints that were raised. I don't dispute that. Some changes, however, I think were probably not good. But at any rate, great efforts were made to allay the fears and concerns and make sure this bill did not go too far.

Yes, it is good to have watchdogs, but you don't want the watchdogs biting the house owner. I want to have a bill that protects the owner of the house.

We discussed these issues and addressed them line by line. Senator LEAHY, ranking member, civil libertarian for sure, made certain that the process was open. So did Senator HATCH. Even the most arcane fears were addressed. It was a good process.

We left out things in this legislation that I would liked to have seen. But those things eroded some support, and people were concerned about it, and we left that out. But surely we have not forgotten that this debate just occurred 4 years ago. It was full and vigorous, and the legislation we passed was certainly not something that was rushed through without consideration.

Most importantly, we took down the wall that prohibited our Central Intelligence Agency and Defense agencies to gather intelligence around the world that might be relevant to attacks on our homeland.

This wall—this legal barrier—prevented them from sharing that information with the investigative forces in the United States, the FBI, and the local police, so that they could use it to protect the citizens of America. There was a wall created by the Church committee—an overreaction, frankly, to the Watergate problems that arose during that period of time. And they created this wall. So the data and the information couldn't be shared with the FBI, and the FBI couldn't share information with them. This wall perhaps even prevented the FBI from finding more information that would validate information they already had, and therefore left us less able to defend America and to effectively utilize information about criminal elements that would be important to us. This was an unbelievable situation. But it was the law of the United States.

Some people say surely the agents are not going to do that. Surely, if Defense agencies or the CIA found information that a terrorist organization may be threatening America, they would pass it to the FBI. No. They were

not. It was against the law that Congress passed. I think there were bits of evidence proved that indicated that had that wall not be there we might possibly have stopped 9/11. But it is easy to see after the fact that there are circumstances in which that wall would have allowed another 9/11 to happen when, and if it had not existed, we could have stopped it. There is no doubt about that. It is easy to see scenarios where that would happen.

So that is one of the most important things that was part of this act. It was important.

This bill is expiring. If we don't extend it now, that wall will go back up.

I say to my colleagues, this legislation is critical to national security. It is extremely critical to our national security. We are thankful and most pleased that we have gone now 4 years since 9/11 without another major attack on our homeland. It is something that I would not have thought possible. I can tell you that one reason it has not occurred and that we have not had another attack is our local law enforcement, our FBI, and our intelligence agencies which are working together effectively, and with a focus we have never had before on these kind of issues. It is remarkable what they are doing. They have given their heart and soul to it. Frankly, it amazes me to hear people on the floor of the Senate and outside of the Senate often suggesting that the FBI and our investigative agencies are threats to us. There is a paranoia that is not helpful.

I was a Federal prosecutor. I worked with the FBI for many years. These individuals are patriots. They are working night and day to protect our country. We have created many hurdles for them that are difficult for them to overcome and which can actually impair their ability to identify and prosecute terrorist cells that may be operating in our country today. It is not a theoretical matter. This is a matter of tremendous importance. We need to focus on it.

I will go straight to the areas raised as concerns and that have formed the basis of objections from many of our colleagues—some of our colleagues, not many—and from outside groups.

I recall the Senate PATRIOT Act bill cleared the Senate Judiciary Committee 18 to 0. It passed the Senate unanimously by unanimous consent. The legislation then went to conference committee. Much discussion and debate went on with regard to the House version and the Senate version. Frankly, they were not that much apart. Compromises were reached. The Senate bill did rather well as these things go in terms of our side prevailing. We came out with a pretty good bill. I was excited about it.

I am disappointed now we have Members of this Senate filibustering the PATRIOT Act, alleging that there is some sort of big change that has occurred that threatens the liberties of Americans and that we do not need to

extend it. It is beyond my comprehension.

Let's talk about some of the issues. I will do it the best I can, fairly and objectively. I will try to say what I think the provisions mean. I will try to give a historical context for these provisions and make some comments with regard to why they are important tools for our law enforcement.

Our investigators are American heroes. They are working in every community. Before September 11, we had, I believe in Arizona, people learning to fly an airplane. They did not want to learn how to land it; they just wanted to learn how to fly it. In Wisconsin, Minnesota, we had other information that came up which was not properly assimilated and not properly evaluated. We had information from Florida that a number of terrorist groups had been stopped for speeding and other activities. The dots were not connected at that time. We know those stories. We were not as focused at that time as we are today post-September 11. We are more focused today.

Some of the problems we had at that time were a result of inadequate laws and procedures that made it even more difficult for investigators to investigate national security threats and terrorist threats, than it is to investigate dope dealers and tax evaders—unbelievable, but it is so.

There has also been a lot of discussion about national security letters, what they are and how they operate. I would like to have seen terrorist investigators given administrative subpoena power. That is something other agencies have. The Drug Enforcement Administration can issue subpoenas for financial records, telephone toll records, motel records, and bank records. They just issue a subpoena, and they give them a record. The IRS can get records like that in the same way. The Customs Service and many other agencies have the ability to obtain records administratively.

But people were concerned about this and said this would be abused. We worked and worked on it. This is what we came up with. It is a very modest proposal. It is a proposal and a legislative enactment which is fair, which is restrained, which is consistent with our history as a nation and consistent with approved criminal justice procedures by the Supreme Court of the United States.

For example, the national security letter is a procedure by which the Federal investigative agent can request information from a third party to obtain financial records, telephone toll records, credit reporting records, and a limited number of records like that. You cannot get medical records. You cannot get library records with a national security letter. But these are the routine things often critical to investigating a terrorist organization. It is extremely important. These cases can move very fast. If you have to have a court order to get it and you need the

information on Friday night but cannot get a judge somewhere, death can result. It can be a matter of life and death. It can be a matter of whether an investigation breaks your way and you get the key information necessary to penetrate a terrorist cell or not. This is absolutely consistent with what other agencies have as a matter of their legitimate power. We ought to be able to do that in terrorist investigations, for heavens' sake. There is no doubt about that. This is extremely important.

Looking at the perspective, it is very important—and I know the Presiding Officer is a lawyer—to understand the principles of privacy and search and seizures that are at stake. These subpoenas are not subpoenas to an individual's personal, private records; these are subpoenas issued to third parties. A defendant does not own the telephone toll records. If he does not want the telephone company to know whom he has called, he should not use the phone company. Everyone in the phone company can access the phone numbers he calls—not the contents of the conversation—and can find out whom that person has called. When you go to the bank and use it, the bank maintains records on your account. Those are not your records; they are the bank's records. If you have a credit reporting agency that has collected public data on your payments, they can examine it; why can't an investigator investigating a terrorist have access to that, pray tell? In these areas, there is not the same expectation of privacy.

The U.S. Supreme Court has said repeatedly for the last 100 years or more that you do not have the same expectation of privacy you have in those records because they are not yours. They are somebody else's records. You have an expectation of privacy and the search and seizure laws and search warrants apply to matters in your house, matters in your car, matters at your office desk, any location in which you have exclusive control and dominion. If it is yours, you have a right to it, and the Government cannot come into your house, cannot come into your business and take those kinds of records without a search warrant approved by a Federal judge based on probable cause. They have to file affidavits under oath stating what facts are there to justify the entry into an individual's home or business to obtain those personal records.

This national security letter has nothing to do with the records people own. It in no way changes that historic right that your private property cannot be taken or searched without a warrant approved by a Federal judge in a Federal case. These are records belonging to third parties, and they are subpoenaed every day. Every district attorney in America can subpoena your telephone toll records if he believes they are relevant to an ongoing criminal investigation. That is the standard. That is the standard for Federal prosecutors. The U.S. attorney—which I

was for 12 years—issued tens of thousands of subpoenas for those kinds of records routinely on the simple test of whether it is relevant to an ongoing criminal investigation. If you are investigating a drug dealer, a drug deal goes down, and the dealer says, I don't know John Jones, and you subpoena his telephone toll records and see that he made 8 phone calls or 25 phone calls to John Jones in the hours leading up to the dope deal, you have pretty good proof to use at trial. That is the way you make cases. That is the way investigations are done. If they say, I didn't make any money off that, you check his bank record, and see that he deposited \$10,000 in cash. That is proof that goes toward whether this person was engaged in selling dope for cash. That is the way you prove cases every day. This is the way you have to prove cases against terrorists. I make that big point.

I have heard people on national television say they can go into your house and search your house without a warrant. Absolutely not true. The great protections to your home and property were changed not one whit by the PATRIOT Act.

It simply allowed the Federal investigators in terrorist investigations to have a much improved ability to timely obtain records. I am telling you, when you are investigating one of these groups and you get a call, a tip, from someone who says, there is a group over here that is pretty dangerous, and we just heard one of the terrorists is coming in from out of the country to meet with them, and you need to check their telephone toll records or check the motel to see if they have been at this motel, to verify whether this occurred, subpoenas can be issued like that. But you do not need to have to go to the FISA court, a Federal court, to get approval any more than a local district attorney would have to do that. As I have indicated, other agencies have these requirements, have these abilities today. It is no big deal, in my view.

Now, what else did we require here? We required that the individual issuing this national security letter, the Federal agency that approves it, certify that it is a national security matter. That is an important certification. They have to do that under oath. Some people may think: Well, they may not comply with that. They could go and break in your house without any warrant. But that is not the way Federal agencies operate. I have worked with them for the biggest part of my career. They do not violate the law. They do not violate this wall between the CIA and the FBI. We have seen that to be true. They do what they are told according to the law. Congress makes these laws, and we need to make sure that laws make sense and do not undermine the ability of those out there working every day to be successful in their work. So it has to be certified, and if an agent lies about that, he or she can lose his or her job, trust me.

They also have to certify that it is a matter that endangers the national security. I think that is too high a burden, frankly. Maybe you do not have that much proof right now that it actually endangers national security, but it is a terrorist organization that you need to dig into and watch more closely. But we have to certify to that. That was part of what it took to get the bill passed, and we just have to live with that. It is something I am not happy with.

Remember, the recipients of these national security letters are third parties who have records—the phone company, the bank, and those kinds of agencies. They can object. They said: Well, they can't object. Yes, they can object. They can file a motion to quash under this bill if there is any abusiveness there, and they can object to the secrecy requirement, and it then requires, if they object, the Attorney General of the United States or one designee of his—the Deputy Attorney General probably—to personally certify that this is a need in which the national security is implicated. That is what you can do.

Let me just pause for a second. Nothing is more important in this act than the fact that we have a system by which our investigators, in terrorist cases, can obtain information from entities that have records relating to these terrorist organizations without those entities telling the terrorists we are investigating them. The last thing you want them to know is that you are onto them. That is so basic in law enforcement. I have been there. I have seen the investigations of drug organizations and things of that kind. You do not want them to know you are onto them. Once they know that, they will scatter like a covey of quail and not be around. They will regroup somewhere else to carry on their evil deeds. Now, you can do that today, but let me tell you the history of it.

When I became an assistant U.S. attorney in the 1970s, if you subpoenaed bank records, you would ask the bank or their agents not to report it to the customer, and they would not do it. But in the years that have gone by, the banks have been sued, so they have gotten lawyers and feel they have an obligation to their customers. Almost all of them have a policy that if a customer's records are subpoenaed, they notify the customer. So that has been a change in policy, and it can be devastating. Sometimes, you desperately need some of those records, but you do not need to tip off the organization you are investigating them. Most of the time, these companies have no real objection, because this eliminates their legal responsibility that lawyers say they may have, and this allows them to reveal it. They are satisfied. You get the records, and they do not tell the terrorist that you are getting them. That is one of the most important things in this whole legislation.

So, as I said, they can object. They can object to the fundamentals

through a motion to quash a national security letter, and they can object to the secrecy requirement and require the Attorney General of the United States to certify that it is appropriate to be maintained secret.

Further, the bill says the Department must issue an annual public report to the Nation on how many of these have been issued and under what category.

Also, as part of the conference, we dropped legislation that made it a misdemeanor, with up to 1 year in jail, for a business to violate the court order and reveal the subpoena to the terrorist. I am amazed we did that. But people objected, and to make people happy, we removed the criminal misdemeanor penalty for somebody who tips off the terrorist that the Government has obtained information on them. I think that is terrible, but it is part of it, so it is one of the things I have to accept. If some of my colleagues have concern on the other side, they have to realize no bill is perfect, and we take what we can get.

I see our Budget Committee chairman, Senator GREGG. I was prepared to talk about some of the issues relating to section 215. We can do that later at another time, and I would be pleased to yield to Chairman GREGG if he has some matters he wishes to discuss at this time.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from New Hampshire.

Mr. GREGG. Madam President, I would actually like to get a clarification from the Senator from Alabama because I know he is an expert on this issue, having been a U.S. attorney and having been one of the leading authorities on legal activity here in our country. Because earlier in the day the assistant leader from the Democratic side of the aisle came to the Senate floor and made an extensive statement about how abusive the present bill, which is being moved forward, is, and specifically toward libraries, and how, as he represented it, somebody's records could be subpoenaed from a library, basically *carte blanche*, and then the library would be gagged from disclosing that information.

As I understood it, the bill, as it has worked its way through conference, has actually put in place stronger protections for libraries, and actually a terrorist gets more protection than, say, somebody who is in the Mafia; is that correct?

Mr. SESSIONS. Madam President, I think the Senator is fundamentally correct. Sometimes investigators need to know which books have you checked out. I prosecuted an individual one time who was a doctor. They made a TV movie out of it. He had a book, a death dealer's manual in his possession and another one on deadly poisons. But when you are trying to prosecute a case, the fact is that this covers even book sales, for example.

Any district attorney in America today can subpoena the book store and

find out what you or I bought, if it is relevant to a criminal investigation. In this case, not only must it be relevant to any investigation, it must be relevant to a national security investigation in which the issuer of the subpoena must certify that it endangers the United States. It is a very rare occurrence. The only difference is that there is an automatic ability for the Government to request that it not be revealed to the person investigated on an immediate basis.

These records are available today. The library association, in my view, has misunderstood the principle of law enforcement. Yes, you do not want people willy-nilly probing library records to see what people are reading. Of course, that is not legitimate. But when you certify it is a national security investigation, important to the safety of the United States, when you issue one of these subpoenas, I can't imagine anybody would object to that. It is certainly consistent with the generalized principle of subpoenaing records. I thank the Senator for raising that. I do believe this is out of sync with reality and the complaints are not justified.

If we were to find out that people, agents were probing, going around the country willy-nilly inspecting people's reading habits, this Congress would react just like that, and we would pass laws to stop it. We would get people fired if they were doing those kinds of things. That is in violation of Department of Justice procedures and policies. Anybody caught doing that would be fired on the spot. That is absolutely improper. But when you are investigating a terrorist organization, this is a modest proposal that requires the Government to have a high standard of proof, to support how they have done it, and is otherwise constrained in a way that the Senate Judiciary Committee agreed to by unanimous vote of 18 to nothing.

I would like a little later to talk about section 215 which requires a higher standard, and library records are part of that. With regard to library records in particular, along with medical records, you must present that to a Federal court, a FISA court, and get an approval in advance before you can get library records. It requires advance approval.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent that notwithstanding the previous order, the first vote be on the Carper motion to instruct, followed by the Baucus motion, and then the Harkin motion.

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

The Senator from Iowa.

MOTION TO INSTRUCT CONFEREES

Mr. HARKIN. Madam President, on behalf of myself and Senator SMITH of Oregon, I call up the motion at the desk to instruct conferees regarding

cuts to Federal food assistance programs.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] (for himself and Mr. SMITH) moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to insist that any reconciliation conference report agreed to jointly by the House and the Senate does not contain any cuts to Federal food assistance programs, including the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), for the following reasons:

(1) The Federal food stamp program is the first-line of defense in the United States against hunger and food insecurity, providing nutrition assistance for over 25,000,000 people in the United States.

(2) 80 percent of benefits under the food stamp program, over \$23,000,000,000 in 2005, are provided to families with children, making the program the most important form of nutrition assistance for children in the United States.

(3) Hunger and food insecurity in the United States are rising, with a recent study by the Department of Agriculture finding that—

(A) 38,200,000 people in the United States live in households that were food insecure in 2004;

(B) the number of food insecure individuals increased by nearly 2,000,000 between 2003 and 2004; and

(C) since 2000, the number of individuals classified by Department of Agriculture as food insecure rose by 7,000,000.

(4) The food stamp program plays an important role during natural disasters and has provided emergency food assistance to approximately 2,200,000 individuals affected by Hurricanes Katrina, Rita, and Wilma, allowing disaster victims to obtain critical food within days.

(5) The food stamp program operates efficiently and effectively, with its error rate at an all-time low.

(6) Reductions in funding for the food stamp program would constitute cuts in or loss of benefits to currently eligible individuals and families and would not come out of fraud, waste, or abuse.

Mr. HARKIN. Madam President, I understand that under the order, I have a couple minutes to speak about this.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. HARKIN. I was told I had 2 minutes and then 1 minute before the vote.

The PRESIDING OFFICER. The order was 2 minutes evenly divided preceding the vote.

Mr. HARKIN. I apologize. Then is there another minute before the vote?

The PRESIDING OFFICER. No, there is not.

Mr. HARKIN. Madam President, the Senate has considered cuts to food assistance programs this year on a bipartisan basis. It rejected such cuts. I commend my colleagues on both sides of the aisle, especially Chairman CHAMBLISS for his leadership. This motion is simple. It instructs the Senate conferees to insist upon the underlying Senate position of no cuts to Federal food assistance.

First, we are at a time when hunger and food insecurity in the United

States is increasing rapidly. The number of Americans experiencing food insecurity has increased by approximately 7 million people. This is no time to cut the food stamp program.

Secondly, with all of the emergencies this year with the hurricanes, we have been reminded again of how the food stamp program works in emergencies. There were 2.2 million individuals affected by these hurricanes who got critical food assistance within days.

Finally, again, this has nothing to do with waste, fraud, and abuse. The error rate is at an all-time low in the food stamp program. We have worked on this for over 20 some years to bring it that low. It is working very effectively. The fact is, the House reconciliation bill does not go after fraud, waste, and abuse, but they cut 250,000 people off the food stamp program. That is the wrong way to go.

I thank my colleagues for standing up for hungry families earlier this year. Especially at this Christmas season, let's stand up for them once again and say we are not going to take the food out of the children's mouths.

I urge my colleagues to agree to the motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

MOTION TO INSTRUCT CONFEREES

Mr. BAUCUS. Madam President, I call up a motion to instruct which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to not report a conference report that would impair access to, undermine eligibility for, make unaffordable by increasing beneficiary cost-sharing, adversely affect Medicaid services, or in any way undermine Medicaid's Federal guarantee of health insurance coverage with respect to low-income children, pregnant women, disabled individuals, elderly individuals, individuals with chronic illnesses like HIV/AIDS, cancer, and diabetes, individuals with mental illnesses, and other Medicaid beneficiaries.

Mr. BAUCUS. Madam President, I ask unanimous consent to speak for 2 minutes.

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

Mr. BAUCUS. Madam President, this motion instructs the Senate conferees on the spending reconciliation bill not to bring back a conference report that hurts Medicaid beneficiaries.

Last month, the House passed a spending reconciliation bill that would increase health costs and cut benefits for millions of seniors and lower-income Americans who depend on Medicaid.

According to the Congressional Budget Office, three-quarters of the Medicaid savings in the House bill came

from these cuts. The bill would increase costs for 17 million people, cut benefits for 5 million people, and force tens of thousands off of Medicaid.

We know the damage that increasing health costs can cause. We have seen it happen. Oregon imposed just a nominal premium for some on Medicaid—from \$6 to \$20 a month. Within 10 months, nearly half of the people forced to pay had been dropped from coverage. Three-quarters of those who were dropped became uninsured.

These changes impose a tax on our poorest citizens.

And these changes also burden doctors, hospitals, and clinics that treat Medicaid patients. States will deduct the fees regardless of whether providers ever get paid. Healthcare providers will pass these uncompensated costs along through higher rates for all patients in the private market.

Many poor people will pay more, but get less. The House bill allows States to cut Medicaid benefits. Although the bill would protect the poorest children, millions of children would no longer get the medical care that they need. People with disabilities and chronic conditions would also be at risk.

Some say we need to look at Medicaid's rising costs, and I agree. We need to get a handle on spending and make this program sustainable. But shifting costs and cutting benefits for our poorest and least able to pay is not the smart way to do it.

This motion instructs Senate conferees on the reconciliation bill to reject the House changes to Medicaid that would hurt Medicaid beneficiaries or undermine Medicaid's guarantee. The Senate must take a stand in support of the neediest among us.

Let us ensure that we do no harm to the vulnerable people whom Medicaid serves.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent to speak for 2 minutes on the Baucus motion.

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

Mr. GREGG. Madam President, there is general feeling that the Baucus proposal is—I don't use this in a pejorative sense—benign enough so that everybody can agree to it.

But I do think it is important to understand, relative to the Medicaid issue, that Governors, in a bipartisan way, have come forward and put down some proposals that are really creative, where they feel they can dramatically expand coverage and significantly save money. Some of those do involve using copays of some sort relative to higher income individuals. Having been a Governor—and I know there are other former Governors in this Chamber—I think the flexibility the Governors want is reasonable.

I hope we will come back from conference with language that will give Governors the flexibility necessary to allow them to do creative things in the

Medicaid accounts which will save us money, save the States money, and end up with more coverage. That should be our game plan—more people being covered. I think it is doable because a creative Governor who has energy and guts and staff people who are effective—and most Governors do—can do a lot if they are given flexibility and the ability to move forward without being straitjacketed by Federal regulations. So that will be our goal in conference. I don't think it is inconsistent with what the Senator from Montana has proposed.

Mr. BAUCUS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Madam President, what is the regular order?

The PRESIDING OFFICER. The Senator from Delaware is to be recognized.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

MOTION TO INSTRUCT CONFEREES

Mr. CARPER. Madam President, I ask unanimous consent to address the Senate for 2 minutes on a motion I have at the desk.

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

The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to insist that any conference report shall not include the provisions in the House amendment relating to the reauthorization of the Temporary Assistance for Needy Families Program, including those which would increase work hours for single mothers with young children, impose new cuts on already inadequate child care funding and other proven work supports such as child support, restrict education and training, and reduce State flexibility, and insist that Congress enact free standing legislation that builds on the bipartisan Senate Committee on Finance's reported version of the Personal Responsibility and Individual Development for Everyone Act (the PRIDE Act, S. 667) to reauthorize the Nation's welfare-to-work laws.

Mr. CARPER. Madam President, for the last 3 years that we have been in the Senate, I have been pushing my colleagues, Democrats and Republicans, and pushing the administration and my colleagues in the House of Representatives to reauthorize Temporary Assistance for Needy Families. We first authorized it in 1996. There was a 5- or 6-year authorization that had lapsed, and we need to renew it and establish a path forward for welfare programs in my State, your State, and all other States across this country.

The Senate Finance Committee has approved unanimously, without dissent, legislation to reauthorize it for another 5 years. It is out of committee and ready to come to the floor. We should take it up, debate it, amend it, if we see fit, pass it, and go to conference with the House.

The House passed their own reauthorization measure, which is imperfect in my view. I will mention a couple of problems I have with it. As the Governor of Delaware and lead Governor of the National Governors Association on welfare reform, it occurred to me that if you want people to get off welfare and go to work, they need help with taking care of their kids, and we needed to make sure they had decent health care for the children. If they don't have that, they are not going to be successful in going to work. The measure reported out of the Committee provided extra money for childcare support. It is needed.

There is another problem. Under current law, if you are on welfare, you have to work 30 hours a week. However, if you have young kids under the age of 6, you can work as little as 20 hours a week, not 30 or 40 hours. The House measure says everybody has to work 40 hours a week if you are on welfare. That may sound good at the outset, but if you don't have money for childcare to help with the extra time people are going to be working, it is not going to work. Say somebody has a week-old or month-old or year-old child. They are going to have to work 40 hours a week.

I ask for support on the motion. Let the committee bring the bill forward and debate it and vote and go to conference.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. OBAMA. Madam President, I support Senator CARPER's motion to instruct reconciliation conferees to reject the House TANF provisions. Assisting needy families is too important an issue for this Chamber to cede its legislative authority to the House of Representatives. The TANF Program affects millions of American children and families. It deserves a full and fair debate.

The reconciliation process does not permit that debate. Reconciliation is not the place for policy changes.

The right starting point for Senate debate is the PRIDE bill. PRIDE is not a perfect bill. But it is a reasonable bipartisan effort that addresses childcare, transitional medical assistance, and certain educational opportunities.

Mr. President, we should have a full debate on the PRIDE bill. We should consider what the evidence actually says about moving people from welfare to work, from dependence to independence, from poverty to prosperity. We should have a full debate about what is really required to provide all Americans with equal opportunity.

Unfortunately, reconciliation does not permit that debate. Worse yet, the House provisions are based not on evidence and experience but on ideology.

The cynical increase in the work hour requirement, for example, is a Federal mandate with no basis in the

reality of what works to promote work and reduce poverty. The data shows that people meeting the current 30-hour requirement work about 35 hours now. That is a bit more than the national average for "full time" work for all employees, whether they receive TANF or not. Indeed, among all mothers with children under the age of 6, only 43 percent work as much as 35 hours.

People who don't meet the 30-hour TANF requirement now—for whatever reason—are not going to work more just because the requirement has been increased. What will happen is that Congress will punish the States and reduce State flexibility to do what works.

In my own State of Illinois, we are committed to moving people off welfare and into work. And Illinois is not cynical about it. This isn't about pinching pennies but about providing opportunity.

Illinois is serious about the need for work. Tens of thousands of families have worked their way off assistance. But we understand why people find themselves in need of assistance. We have adopted flexible rules to accommodate families where the wage earner was medically unable to work, where a spouse or child was disabled, where the worker was finishing up a training program.

Illinois requires work but allows people to work part time while they take care of their obligations. And to get mothers out of their homes and into the workforce in a productive way, we have improved the child care subsidy system. We have invested in it.

And you know what? People in Illinois have not lingered on TANF. If they could work their way off the program, they have done so.

Unfortunately, the House TANF provisions which raise participation rates to 75 percent will make it harder for States to deal with family sickness, the realities of raising children, and natural disasters. To avoid penalties, States will have to find make-work activities even for TANF recipients who are working full time.

Another problem is that raising work hours and participation rates will increase the need for childcare well beyond the funding provided in the House bill. Childcare funding makes work possible for many women. If we want people to work and be responsible parents, we have to worry about who will care for their kids. Under the House proposal, States will be forced to fund other activities that will leave them with less money for childcare. That makes no sense.

The House TANF provisions make it harder for States to support working families. I urge my colleagues to reject those provisions in reconciliation, and I look forward to an honest debate about TANF and the PRIDE bill here on the Senate floor.

I also rise today to speak in favor of the motion to instruct offered by Sen-

ator KOHL. This motion expresses the Senate's view that the Senate conferees should not accept the cuts to the child support program that have been proposed by the Committee on Ways and Means in the House of Representatives.

The child support program is an effective and efficient way to enforce the responsibility of noncustodial parents to support their children. For every public dollar that is spent on collection, more than four dollars are collected to support children. That is a good return on our investment in families. Moreover, these families are then less likely to require public assistance and more likely to avoid or escape poverty. This is a program that works.

The evidence is compelling. For example, in 2004, enforcement efforts helped collect almost \$22 billion in child support. Our aggressive State and Federal efforts have translated into \$1 billion in collected child support payments in Illinois alone this year. That means 386,000 Illinois families will be better equipped to provide for their children.

Preliminary budget estimates suggest the cuts proposed by the Ways and Means Committee will translate into \$7.9 billion in lost collections within 5 years, increasing to a loss of over \$24 billion within 10 years. This proposal is not even penny-wise, and it is certainly pound-foolish.

Today, the State of Illinois reports a 32 percent child support collection rate. Let's not take a step backward in the progress that has been made by stripping the States of necessary Federal support. The welfare of too many is at stake.

Child support is the second largest income source for qualifying low-income families. We should not balance our budget on the backs of families that rely on child support to remain out of poverty.

I urge my colleagues to support this motion as well. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Madam President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to instruct conferees offered by the Senator from Delaware.

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

The legislative clerk called the roll. Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), the Senator from Connecticut (Mr. DODD), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

If present and voting, the Senator from California (Mrs. BOXER) would vote "yea."

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

The result was announced—yeas 64, nays 27, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—64

Akaka	Frist	Nelson (NE)
Alexander	Grassley	Obama
Baucus	Harkin	Pryor
Bayh	Hatch	Reed
Bennett	Hutchison	Reid
Bingaman	Inouye	Roberts
Burns	Jeffords	Rockefeller
Byrd	Johnson	Salazar
Carper	Kennedy	Santorum
Chafee	Kerry	Sarbanes
Clinton	Kohl	Schumer
Coleman	Kyl	Smith
Collins	Landrieu	Snowe
Conrad	Lautenberg	Specter
Corzine	Leahy	Stabenow
Dayton	Levin	Stevens
DeWine	Lincoln	Thune
Dole	Lugar	Voivovich
Dorgan	Mikulski	Warner
Durbin	Murkowski	Wyden
Feingold	Murray	
Feinstein	Nelson (FL)	

NAYS—27

Allard	Craig	Lott
Allen	Crapo	Martinez
Bond	DeMint	McConnell
Brownback	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Gregg	Sununu
Coburn	Hagel	Talent
Cochran	Inhofe	Thomas
Cornyn	Isakson	Vitter

NOT VOTING—9

Biden	Chambliss	Graham
Boxer	Dodd	Lieberman
Cantwell	Domenici	McCain

The motion was agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Madam President, I ask unanimous consent that on the next two votes they be 10-minute votes.

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

The Senator from Montana.

Mr. BAUCUS. Madam President, what is the regular order?

The PRESIDING OFFICER. There is now 2 minutes evenly divided prior to the vote on the Baucus motion.

Mr. BAUCUS. Madam President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Montana.

Mr. BAUCUS. Madam President, this motion instructs the Senate conferees on the pending reconciliation bill not to bring back a conference report that hurts Medicaid beneficiaries. In fact, these changes amount to a tax on our poorest citizens. They also burden doctors, hospitals, other providers who will pass on the costs to them. More poor people will pay more, but they will get less. It does not make sense. We are cutting Medicaid to take it out of the hide of the poorest people of our country, and that is Medicaid recipients.

May I also say I am supported by a strong letter from a number of Senators on the other side of the aisle. This letter asks the same; that we do not adopt these harsh House Medicaid cuts. I ask unanimous consent it be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, December 13, 2005.

Hon. WILLIAM H. FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. HARRY REID,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER FRIST: Throughout the budget process we have been concerned about the impact to America's lowest income and most vulnerable from policies implemented to secure budget savings. We were heartened by the Senate's effort to protect these Americans by utilizing system efficiencies and eliminating waste and abuse from the Medicaid program. Unfortunately, the House of Representatives did not take a similar path. Therefore, as the Senate begins its work to reconcile the two budget reconciliation bills, we urge you to hold firm in defending the Senate's policies regarding Medicaid.

Medicaid is a vitally important program that serves almost 54 million poor, disabled, chronically ill and elderly Americans. It provides a range of benefits from screenings and vaccinations for the young, to home health and long term care for the elderly. Given the breadth and diversity of the people it helps, Congress must remain committed to the strength and viability of Medicaid.

As indicated by the strong support from beneficiary groups, advocates and providers, the Senate bill ensures that the most vulnerable among us are not called upon to carry the burden of balancing the budget. This was accomplished by adhering to a few key principles. First, the Senate bill limits the cuts to a total of \$10 billion, the savings level which the Finance Committee was instructed to achieve. The bill utilizes both Medicare and Medicaid to reach the required \$10 billion in budget savings, and holds the net level of Medicaid cuts to under \$5 billion. Most importantly, the Senate bill does not achieve any savings through policies that would negatively impact beneficiaries. We strongly urge you to continue to defend these principles and preserve the Senate's policies on Medicaid in the final budget reconciliation agreement.

In particular, we are concerned with policies included in the House bill that would impose new cost-sharing requirements on beneficiaries, alter eligibility policies for long term care that impact the middle-class, and provide unlimited flexibility to states to change benefits. These proposals were debated within the Senate and soundly rejected.

We look forward to working with you on developing a conference report that can garner wide support among Senators and supporters of the Medicaid program.

Sincerely,

GORDON SMITH.
NORM COLEMAN.
ARLEN SPECTER.
LINCOLN CHAFEE.
SUSAN COLLINS.
OLYMPIA SNOWE.
MIKE DEWINE.

Mr. GREGG. Madam President, this will be a 10-minute vote, as well as the following vote, so I hope Senators will

stay around to accomplish those votes promptly.

Second, we intend in conference, should we be successful in going to conference under the leadership of Senator GRASSLEY, to bring back a bill which will effectively address the issues of Medicaid, and we see the opportunity here to follow very closely, hopefully, the proposals of the Governors, which are bipartisan in nature.

Mr. BAUCUS. The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. GREGG. I believe we hope to follow closely the proposals of the Governors, which are bipartisan in nature, and give the Governors the flexibility they need in order to accomplish significant Medicaid reform, which will mean extending Medicaid to more people but doing it in a more efficient way, which will save us more money. We actually don't see that this language impairs that effort, and we think we can report a very effective bill with or without this language.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been previously ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), the Senator from Connecticut (Mr. DODD), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

If present and voting, the Senator from California (Mrs. BOXER) would vote "yea."

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

The result was announced—yeas 75, nays 16, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—75

Akaka	Dorgan	Lugar
Alexander	Durbin	Martinez
Baucus	Enzi	McConnell
Bayh	Feingold	Mikulski
Bennett	Feinstein	Murkowski
Bingaman	Frist	Murray
Bond	Grassley	Nelson (FL)
Brownback	Gregg	Nelson (NE)
Burns	Harkin	Obama
Byrd	Hatch	Pryor
Carper	Hutchison	Reed
Chafee	Inouye	Reid
Clinton	Jeffords	Roberts
Cochran	Johnson	Rockefeller
Coleman	Kennedy	Salazar
Collins	Kerry	Santorum
Conrad	Kohl	Sarbanes
Corzine	Kyl	Schumer
Craig	Landrieu	Smith
Crapo	Lautenberg	Snowe
Dayton	Leahy	Specter
DeWine	Levin	Stabenow
Dole	Lincoln	Stevens

Talent	Thune	Warner
Thomas	Vitter	Wyden

NAYS—16

Allard	DeMint	Sessions
Allen	Ensign	Shelby
Bunning	Hagel	Sununu
Burr	Inhofe	Voinovich
Coburn	Isakson	
Cornyn	Lott	

NOT VOTING—9

Biden	Chambliss	Graham
Boxer	Dodd	Lieberman
Cantwell	Domenici	McCain

The motion was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. There are 2 minutes equally divided in relation to the motion by Senator HARKIN to instruct conferees.

The Senator from Iowa.

Mr. HARKIN. Mr. President, we are now going to vote on a motion to instruct conferees. Stick with the Senate's position dealing with cuts in the Food Stamp Program. I know arguments have been made about waste, fraud, and abuse. What the House does does not cut waste, fraud, and abuse but cuts 200,000 people off the food stamp rolls. They are working poor. They work every day. They have children. This sends them back on welfare rolls.

I point out there was a letter sent to Senator CHAMBLISS on December 8 from 15 Republican Senators saying, please stick with the Senate position. I compliment those Senators. I publicly thank Senator CHAMBLISS for his great leadership both on the Agriculture Committee and in the full Senate on this issue.

This is not the time to cut food stamps from people who are working and struggling with their children.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, first, I also wish to compliment the Senator from Georgia, Mr. CHAMBLISS, who brought to us reconciliation instructions out of his committee which did not cut food stamps. But I do think it would be a mistake for us to tie Senator CHAMBLISS's or anybody's hands as they move forward in conference.

The language which I have concern about in this proposal is the last paragraph. Everything up to the last paragraph is OK, but that last paragraph catches you because he says:

Reductions in funding for the food stamp program would constitute cuts in or loss of benefits to currently eligible individuals and families and would not come out of fraud, waste, or abuse.

Well, it represents the fact that we cannot save any money from food stamps out of fraud, waste, and abuse. That is just wrong. There are ways to save money in food stamps by addressing fraud, waste, and abuse. There are a lot of ways. Anybody who has been exposed to the program knows that.

I believe this instruction would be counterproductive to the flexibility that Senator CHAMBLISS and others would like as they move forward in this conference, and I intend to vote no on it.

Mr. President, I believe the yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent. The Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), the Senator from Connecticut (Mr. DODD) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

If present and voting, the Senator from California (Mrs. BOXER) would vote "yea."

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

The result was announced—yeas 66, nays 26, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—66

Akaka	Feinstein	Nelson (FL)
Baucus	Frist	Nelson (NE)
Bayh	Grassley	Obama
Bennett	Hagel	Pryor
Bingaman	Harkin	Reed
Brownback	Hatch	Reid
Burns	Inouye	Roberts
Burr	Jeffords	Rockefeller
Byrd	Johnson	Salazar
Carper	Kennedy	Santorum
Chafee	Kerry	Sarbanes
Clinton	Kohl	Schumer
Coleman	Landrieu	Smith
Collins	Lautenberg	Stabenow
Conrad	Leahy	Specter
Corzine	Levin	Stevens
Dayton	Lincoln	Talent
DeWine	Lugar	Thune
Dole	Martinez	Voivovich
Dorgan	Mikulski	Warner
Durbin	Murkowski	Wyden
Feingold	Murray	

NAYS—26

Alexander	Crapo	Kyl
Allard	DeMint	Lott
Allen	Domenici	McConnell
Bond	Ensign	Sessions
Bunning	Enzi	Shelby
Coburn	Gregg	Sununu
Cochran	Hutchison	Thomas
Cornyn	Inhofe	Vitter
Craig	Isakson	

NOT VOTING—8

Biden	Chambliss	Lieberman
Boxer	Dodd	McCain
Cantwell	Graham	

The motion was agreed to.

Mr. HAGEL. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. HAGEL. Mr. President, I ask unanimous consent that when the Sen-

ate reconvenes at 2:15, the following Senators be recognized to speak as in morning business: ROBERTS, 30 minutes; MIKULSKI, 15 minutes; CARPER, 30 minutes; I further ask unanimous consent that if a Republican Senator seeks recognition between Senator MIKULSKI and Senator CARPER, my request be so modified.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 1:09 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. IZAKSON).

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Kansas is recognized for 30 minutes.

PATRIOT ACT

Mr. ROBERTS. Mr. President, I rise today to support the conference report for the USA PATRIOT Improvement and Reauthorization Act of 2005. That is a long title. We are talking about the PATRIOT Act.

I am pleased to report to my colleagues and to the President that the House just passed the PATRIOT Act with a very strong bipartisan vote. We need to do the same. I thank Chairman SPECTER for his hard work in getting this important legislation to the conference.

This conference report is one of the most important that we will pass this year. We must do it prior to leaving because it contains a number of provisions that are absolutely vital to our national security. I say that from my perspective as chairman of the Senate Committee on Intelligence.

Like the original PATRIOT Act, this legislation does contain a number of compromises that are not to my liking. But it is often said that the mark of a good compromise is that it leaves both sides unhappy. We have a great number, apparently, who are unhappy about this bill. I think we can safely say that no one is entirely happy with all of the provisions in the legislation. Simply put, this is not the best possible bill but the best bill possible under difficult circumstances. Again, it is absolutely needed on behalf of our national security.

My primary concern as a conferee was to ensure that the intelligence community retains its ability to effectively use the important tools that are provided by the PATRIOT Act, and I think we have accomplished that goal.

This act reauthorizes all of the PATRIOT Act provisions that are scheduled to sunset at the end of this year. It does, however, impose a 4-year sunset on the use of FISA court orders for business records and roving electronic surveillance and an additional sunset on the FISA—what is called the lone wolf authority.

Personally, I am opposed to these extended PATRIOT Act sunsets. I know Congress has conducted extensive oversight of these provisions. I know the Intelligence Committee and other committees have, and we have yet to find any evidence—I know this is not the perception we read about in the newspapers or that we hear on the electronic media, but we have yet to find any evidence of abuse or overreaching with respect to these or any other provisions of the PATRIOT Act.

Moreover, this very legislation makes modifications to address the perceived problems with the FISA business records and roving wiretap provisions. I ask this simple question: If we fixed these provisions, why is there need for additional sunsets? It seems to me that Congress always retains the ability to amend the law that is enacted. We have a duty to conduct vigorous oversight with the use of these provisions. The Judiciary and Intelligence Committees certainly do that. We don't need and should not use sunsets to compel oversight of these important issues. That ought to be our reasonable obligation, and we do meet those obligations.

Having said that, I want to highlight the modifications made to two investigative tools that have been widely mischaracterized, in my view, by critics and some in the media—FISA business record court orders and national security letters.

With regard to the FISA business record court orders, one of the most contentious issues during this conference was whether a relevance-plus standard should be added to the FISA business record provisions. Critics argued this tool could be used for fishing expeditions. Our oversight did reveal that this was not the case, but we agreed that relevance was the proper standard for obtaining a business record court order.

Some are not satisfied with this approach and demand that we include not only a relevance standard but a requirement to specify facts that would tie the requested records to a foreign power or to an agent of a foreign power, a so-called relevance-plus standard. The problem with this is very easy to understand. It is a standard not used on any other subpoena, certainly not requiring the prior approval by a judge like these FISA orders. The standard would also leave gaps in the FBI's ability to use what is in reality a nonintrusive investigative tool. Under relevance-plus, by then the FBI would have lost the use of section 215 in important circumstances.

Ultimately, the conferees reached a compromise to address the misperceptions about section 215. Under the conference report, the standard remains relevance to an authorized investigation. Let me say that again. The standard remains simple relevance to an authorized investigation. There is no increased burden of proof. The standard remains the same as every