here is to get it to him for his signature. He awaits our action.

I yield the floor.

Mr. REID. Mr. President, this bill is not a bipartisan bill. The bill that came out of the Intelligence Committee is bipartisan, but understand it was concurrently referred to the Intelligence Committee and the Judiciary Committee. They both have jurisdiction over this legislation. We cannot pick and choose what the President likes. We have a situation here where the Judiciary Committee is entitled to be heard. That is what they are asking for—to be heard. They demand that and it is appropriate.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided, with the Republican leader controlling the first half and the majority leader controlling the final half.

The Senator from Florida is recognized.

FISA

Mr. MARTINEZ. Mr. President, I wish to talk about the very important issue relating to foreign intelligence surveillance. I want to talk about it not in the sense of who gets to be blamed if something happens. I believe that on something of this magnitude, the American people are pretty tired of the blame game: We would have done this, but if you didn't do that, we blame you; and if this happens, you get to blame us. I think the time of blame-casting has well passed. The fact is that the laws that grant the Government the authority to use the resources we have in order to stay informed of what our enemies are seeking to do to us are outdated and need to be modernized and put up to date with our current technology. We are fighting a modern war against a modern enemy. The tools we have to fight that war are out of date. One of the only ways we are able to expose and stop terrorist plots before they unfold is through the provisions accorded under FISA.

Some of my colleagues have expressed an understandable concern about the current FISA reauthorization, and whether it would improperly invade the civil liberties of our citizens. After 2 years of public debate on the broad issues of FISA, and after reviewing the current legislation, I believe those concerns are unwarranted.

This issue transcends the stance of either political party or any partisan interest. Those who oppose this are sincere in their concern; they just happen to be wrong. Needless hurdles will be created for our Government in the obtaining and utilizing of valuable intelligence to keep America safe. So I want to see us address this issue head on and come together and send the President a bill that he can and will sign.

The President spoke about this last night in his State of the Union Message. He wants to get this matter resolved, and he wants a bill on his desk. We owe it to the military and the intelligence community to equip them with the tools they need to protect our citizens and carry out their duties effectively.

Throughout our history, Americans have always been concerned about the proper balance between security and freedom. Those concerned about the power of Government and trampling on the rights of free citizens are right to insist on maintaining the individual liberties granted to us by the Constitution, especially during a time of crisis. The bill we are considering is precisely concerned with maintaining and keeping a proper balance of those protections.

This is a bipartisan bill. It was reported out of the Intelligence Committee by a vote of 13 to 2. It is a modern update that is designed to keep our technological edge and to effectively implement the goals of the original FISA law passed in 1978. This bill is the product of the careful consideration of Members of both sides of the aisle on the Intelligence Committee—those best informed about these matters, who have the most knowledge about the means and methods by which we gather intelligence. Those Members recognize a need to modernize the way our intelligence is collected and the need to share information that is vital to terrorist communications, whether these communications be on a cell phone, by e-mail, or in person. This bill is for the American intelligence services to be able to timely develop intelligence without having to wait for a court order. In other words, if a terrorist group such as al-Qaida calls a sleeper cell within our borders, this would ensure that our Government can protect our citizens, the specific procedure for surveillance, and it ensures that the independent FISA Court is fully informed of every step in the process.

The bill also has a provision to protect those who have assisted us and the intelligence community in gathering information that was absolutely vital to our national security. Fortunately, we have had full cooperation from a number of telecommunications companies in providing our intelligence officials with accessing and obtaining information from foreign terrorists.

As we look at this issue—and the majority leader says this issue is the big sticking point, so let me talk about that specifically, that this retroactive immunity for telecommunications companies allows bad actors to get off the hook—who is it we are giving immunity to and why should it be retroactive? This has already been noted a number of times, but I think it bears repeating.

Retroactive immunity is necessary not only to protect companies that cooperated in good faith at the request of our President during the time of the most serious domestic crisis our country has ever faced, but it was done to ensure our national secrets regarding intelligence methods remained classified and are not disclosed in public through the civil court process. In other words, it is not just about providing immunity to those who helped at the time it was needed, but it is also to ensure that as we go forward, we are not going to have an O.J. Simpson-type trial, with television cameras blaring with information being disclosed. We know things do not keep. We know our enemies are capable of getting the information because it will be in the New York Times. The fact is, we want to keep our methods and sources secret and confidential, and this is a very important part of this immunity idea.

If you want accountability for the executive branch, we have a constitutional system of checks and balances, and leaving aside the President's authority under article II, we are exercising congressional oversight in passing S. 2248, and we, along with the FISA Court, are certainly going to be able to pay close attention to how we select intelligence going forward.

As far as letting bad actors off the hook is concerned, S. 2248 provides retroactive immunity from civil litigation if a series of conditions are met. The assistance was provided in connection with intelligence activity authorized by the President between September 11, 2001, and January 17, 2007, and was designed to detect or prevent terrorist attacks against the United States.

What is wrong with that? The assistance was also to be provided in response to a written request, a directive from the Attorney General or other intelligence community head indicating the activity had been authorized by the President and determined to be legal.

To me, it is a good idea to give these folks the kind of immunity that will allow them to continue to cooperate, that will say to them: The next time there is a vital emergency where your cooperation is needed, we didn't stick you with the bill, we didn't allow the courts to go wild. We protected you because you protected America. To me, that seems only fair and only right.

I hope we can get through the partisan morass that always seems to entangle us. I hope we can find a way we can pull together something of this magnitude and importance, which is about the national security of our country—it is about the intelligence needs of our intelligence community—and that we can come together in a timely fashion, craft this bill, take the bill the Senate Intelligence Committee passed on a bipartisan 13-to-2 vote, put