2701) to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, had come to no resolution thereon.

MEDICARE PHYSICIAN PAYMENT REFORM ACT OF 2009

Mr. CONYERS. Mr. Speaker, pursuant to House Resolution 1109, I call up from the Speaker's table the bill (H.R. 3961) to amend title XVIII of the Social Security Act to reform the Medicare SGR payment system for physicians, with the Senate amendments thereto, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendments.

The text of the Senate amendments is as follows:

Senate amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. EXTENSION OF SUNSETS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking ''February 28, 2010'' and inserting ''February 28, 2011''.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3742; 50 U.S.C. 1801 note) is amended by striking ''February 28, 2010'' and inserting ''February 28, 2011''.

Amend the title so as to read: ''An Act to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 until February 28, 2011.''.

MOTION OFFERED BY MR. CONYERS

Mr. CONYERS. I have a motion at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Conyers moves that the House concur in the Senate amendments to H.R. 3961.

The SPEAKER pro tempore. Pursuant to House Resolution 1109, the motion shall be debatable for 1 hour equally divided and controlled by the Chair and ranking minority member of the Committee on the Judiciary.

The gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to insert extraneous material on this matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. I yield myself such time as I may consume.

Mr. Speaker and Members, this measure before us will extend three provisions of our foreign intelligence surveillance laws for 1 year. The provisions are section 206 of the PATRIOT Act, governing roving wiretaps; section 215, which addresses the collection of business records; and the so-called ''lone wolf surveillance law.''

□ 1630

Without extension, these provisions will expire on Sunday coming.

As we consider this short-term extension, I make these observations:

As one who has found that the USA PATRIOT Act needs a great deal of improvement and that there have been many excesses and sometimes abuses of these broad powers over the years, I have found that too little consideration of the impact of this type of surveillance on our civil liberties has been looked into. And that's why the Judiciary Committee has undergone an extensive process over the past year and reported out a bill that attempts to reform these provisions and enhance congressional oversight. In the other body, the Judiciary Committee has also passed out a bill that improves, in my view, the PATRIOT Act. So we're very close to real reform.

The House bill has new protections for library and bookseller records. It clarifies the reach of roving authority to prevent ''John Doe'' blanket wiretaps. It tightens the standards for national security letters that have been abused in the past. It has extensive new reporting oversight and sunset provisions to greatly strengthen congressional oversight and makes other changes to the related provisions of law.

Please understand, Members, that this extension is not the final word on the PATRIOT Act, and what we will do is use the time between now and the year that will elapse to improve and pass real reform.

Now, while I would prefer to do this now, it is not to me strategically wise nor logistically possible to accomplish this at this time. And with the provisions expiring in a matter of 3 days, the other body has sent us this extension bill, so there is no reasonable possibility that they could pass a broader measure such as a Judiciary-passed bill at this time.

In other words, we have no other choice but to go along with this extension because there isn't sufficient time. Well, tomorrow is the last day of the week. It's physically impossible. So under these circumstances, it seems to me the best course is to merely maintain the status quo and work with the other body and the administration towards some improvements that I have in mind. I can announce we've made progress towards reaching common ground, and I believe an orderly path forward between now and during the next year will lead us to a much better result.

Now, although this extension doesn't reform underlying law, we recognize there's some value in a process that brings us quickly to another sunset date. Experience has taught that there's nothing like an approaching sunset to bring both the executive branch and the other body to the table with the will to see this resolved. So while I'd rather pass the Judiciary Committee bill out and truly make the reforms that I think are necessary, because of the time constraints that we find, I recommend that we take the next year and continue the process.

I urge your careful consideration of this very important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the war on terror is real, and it's all around us. Despite multiple attempted terror attacks and a warning of an imminent attack from our national security experts, apparently the best this Congress can do is a 1-year extension of our most critical national security laws.

On Christmas Day Omar Farouk Abdulmutallab attempted to murder 288 innocent civilians by trying to set off an explosion aboard a Northwest flight bound for Detroit. Thankfully, he failed in his attempt at mass murder, not because of our national security procedures but because of his own ineptness and the quick response from passengers and crew. But we may not be so fortunate the next time.

Last November in my home State of Texas, Major Nidal Hasan killed 13 and wounded 30 others when he opened fire at the Fort Hood Army Base. In September three terrorist plots were successfully thwarted in New York City, Springfield, Illinois, and Dallas, Texas. And now intelligence experts warn us that another terrorist attack may be imminent. Yet after all those near misses, the House majority refuses to pass a long-term extension of three essential PATRIOT Act provisions.

The PATRIOT Act works. It has proven effective time and time again in preventing terrorist attacks and keeping Americans safe. The expiring provisions give national security investigators the authority to conduct roving wiretaps, to seek certain business records, and to gather intelligence on lone terrorists who are not necessarily affiliated with a specific terrorist group.

We cannot afford to play dice with the security of the American people. We must continue these intelligence-gathering measures to win our fight against terrorists. The Obama administration recognized this last year when it called for Congress to authorize the expiring provisions without any

changes that undermine their effectiveness. Instead of working with the administration and listening to national security experts, the House majority is only offering another short-term extension.

The majority may think that by pushing the reauthorization until after the election, they will then be able to pursue legislation to water down these provisions a year from now. But if so, they are playing with fire and innocent Americans are the ones who will get burned.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am pleased now to yield such time as he may consume to the chairman of the Intelligence Committee, Mr. SYLVESTRE REYES, who has served on this committee for 10 years.

Mr. REYES. I thank the chairman for his work on this very important and vital issue and also for the opportunity to speak on an issue that is of such great importance to our country and to our country's national security.

It is important that we reauthorize the expiring PATRIOT Act and the provisions that the brave men and women of the intelligence community continue to utilize and to have these tools that they need to keep us all safe.

This 1-year extension will provide Congress the opportunity to examine important aspects of the PATRIOT Act and to make substantive changes that strike the right balance between protecting the rights of Americans and protecting our national security.

Recently, I introduced H.R. 3969, the Counterterrorism Authorities Improvements Act of 2009. This bill makes improvements to the PATRIOT Act which will strengthen the tools used to combat terrorism and to enhance at the same time the privacy and the rights of Americans.

Additionally, both the House and the Senate Judiciary Committees have passed PATRIOT Act reauthorization bills that would make important improvements in the law that will increase oversight while at the same time preserving critical intelligence authorities.

Some of the more important changes proposed by the House and the Senate include: one, modifying the FISA standard for obtaining business records to ensure that the government is required to show a connection to terrorism; two, requiring a higher standard to obtain library or bookseller records; three, increasing public reporting on the use of national security letters and FISA, including their impact on the privacy of Americans, a right that we all cherish; and, finally, number four, requiring the Inspector General of the Department of Justice to conduct regular audits of the use of these authorities. I am confident that a 1-year extension will provide Congress with sufficient time to make these important changes.

As always, Mr. Chairman, I look forward to working with you, especially in the coming year as we look at ways to make sure that we draw that balance between giving the men and women that keep us safe the ability to utilize essential and vital tools and also at the same time ensuring that the rights and the privacy of all Americans are protected.

With that, I thank you for yielding.

Mr. SMITH of Texas. Mr. Speaker, I yield 4 minutes to the chairman emeritus of the Judiciary Committee, the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of this legislation to extend three provisions of the USA PATRIOT Act that are scheduled to expire on Sunday.

The attacks of September 11, 2001, tragically affirmed the urgency of updating our laws to address the clear and present danger presented by international terrorism. Although the memories of this day may have faded in the minds of some Americans, including some of my colleagues, the danger we face from terrorists and terrorist organizations has not faded. We continue to face an imminent danger, made clear by the attempted Christmas Day attack.

The three provisions scheduled to expire are, first, section 206, the roving wiretap provisions of the PATRIOT Act; second, section 215, the business record provisions of the PATRIOT Act; and, third, section 6001, the ''lone wolf'' provision of the Intelligence Reform and Terrorism Prevention Act.

Of particular importance is the lone wolf provision, which closes the gap in the Foreign Intelligence Surveillance Act that, if allowed to expire, could allow an individual terrorist to slip through the cracks and endanger thousands of innocent lives. When FISA was originally enacted in the 1970s, terrorists were believed to be members of an identified group. That's not the case today, and we need to respond accordingly.

Many modern-day terrorists may subscribe to a movement or certain beliefs but do not belong to or identify themselves with a specific terrorist group. Allowing the lone wolf provision to expire could impede our ability to gather intelligence about perhaps the most dangerous terrorists operating today. Regarding the lone wolf provision, FBI Director Mueller stated that ''while we have not used it with regard to an indictment, it continues to be available for that individual whom we lack evidence to put with a particular terrorist group but does present a threat as an international terrorist.''

The close call we had on Christmas Day demonstrates the need for tough laws like the PATRIOT Act. Terrorist organizations appear to be stepping up their efforts against us, and we cannot let this happen. Our national security is at stake and so are the lives of thousands of innocent people, both Americans and visitors to our country. Our law enforcement officials must be provided with the needed tools to keep us safe, and we in Congress cannot drop the ball on our national security. We must reauthorize these provisions now.

For too long opponents of the PATRIOT Act have transformed it into a grossly distorted caricature that bears no relationship whatsoever to the legislation itself. The PATRIOT Act has been misused by some as a springboard to launch limitless allegations that are not only unsubstantiated but are also false and irresponsible.

□ 1645

The fact remains that the USA PATRIOT Act is vital to maintaining America's safety. The White House and Attorney General have called for extension of the three expiring provisions of the PATRIOT Act, and I commend the administration for recognizing the value of these important national security tools and for rightly urging the Congress to reauthorize each of them. This is your administration, Mr. Speaker and majority Democrats, not our administration, and they have recognized the reason for that.

I urge my colleagues to vote in favor of reauthorizing these provisions before they expire.

Mr. CONYERS. Mr. Speaker, I am pleased to yield as much time as he may consume to the chair of the Constitution Subcommittee on the House Judiciary, the gentleman from New York, JERRY NADLER.

Mr. NADLER of New York. Thank you, Mr. Chairman.

Mr. Speaker, I rise in opposition to this motion to concur in the Senate amendment, which would extend for a period of 1 year the sunset of three provisions of the USA PATRIOT Act. I very much regret that we have to be here today in this situation and that I have to oppose this legislation. I understand we are facing a deadline of this weekend, but I also believe that we have an obligation to do more than punt. That is effectively what we are doing today. We are punting this question to the next Congress.

Both the House and the Senate have worked hard to examine not just these three provisions, but the entire PATRIOT Act, and to craft legislation that would improve its effectiveness, and that would better protect the civil liberties of all Americans. That process should be allowed to continue. Today, with this vote, that process effectively ends.

The PATRIOT Act was passed at a time of panic, and in an extremely rushed manner. Many of its provisions were not well thought out, which is why Congress decided that certain parts of the PATRIOT Act should be enacted on a temporary basis so that we could revisit them after we had time to see how they worked.

The original passage of the bill in 2001 was hijacked at the last minute in a way that should have stood as an embarrassment to the House. The Judiciary Committee back then reported the

bill unanimously, with support from the most conservative to the most liberal members. We did business the way the American people have always said they wanted us to do business, through negotiation and compromise in open committee meetings. That was the high point. The low point came in the dead of night. Then-Attorney General Ashcroft objected to the bill, and so with the cooperation of the then-Republican leadership that bill was junked, and the bill that came to the floor was an entirely new bill written behind closed doors and not seen until shortly before we voted on it on the floor.

The bill that recently passed the Judiciary Committee would have extended the expiring provisions, but would have improved them in response to the problems that experience has brought to light. With respect to roving wiretaps, for example, the committee extended the provision until 2013, and added language to clarify congressional intent that the government must describe its roving target with a sufficient degree of particularity to allow a judge to be able to distinguish the target from other potential users of places or facilities to be surveilled.

Our bill would have allowed the ''lone wolf'' provision of FISA to sunset. This provision allows the issuance of a FISA warrant against individuals with no connection to a foreign power or other foreign entity or to a terrorist group. That is not the purpose of FISA, and in fact Todd Hinnen, Deputy Assistant Attorney General for the Justice Department's National Security Division, testified in the hearing before my subcommittee that this provision has never been used in the 8 years in which it has been enforced. There is no reason why a so-called ''lone wolf,'' concededly unconnected, not connected to a foreign power, not connected, concededly, to a terrorist group—otherwise he wouldn't be a lone wolf—there is no reason why such a person could not be subject to a normal Title III wiretap warrant. That is why the committee voted to let this provision sunset.

We also added some procedural protections to section 215 orders which allow the government to seize all sorts of information concerning what an individual has been reading without a warrant. The bill would have required the President to report to Congress on whether the procedures for sensitive collections could be further modified so as to enhance civil liberties protections without undermining national security objectives. This provision was also extended to the end of 2013 in the legislation reported by the Judiciary Committee.

My bill controlling the use of the much-abused National Security Letters was included in this bill as well. These letters, issued with no court oversight, have been used to obtain all sorts of material, and have been joined with gag orders on the recipients, gag orders that were recently struck down as unconstitutional by the courts. The Justice Department's Office of Inspector General has issued some damning reports on the misuse of these letters, and the section is in dire need of reform. These reforms, which were a part of the bill reported by the Judiciary Committee, should be part of any legislative action extending these provisions of the PATRIOT Act.

I regret that we are not going to continue this process of improving the PATRIOT Act. I regret we do not have before us a very short-term extension designed to give us more time to finish this work in the balance of this Congress. But we are punting to the next Congress, which for all practical purposes means that we are extending the PATRIOT Act unchanged for the indefinite future. I believe that our Nation and our liberties will suffer as a result of this. I hope that this vote today, contrary to what I expect, will not stop my colleagues from continuing to improve our intelligence-gathering laws, and specifically continuing to examine and improve the PATRIOT Act in a timely manner.

Mr. SMITH of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LUNGREN), a senior member of both the Judiciary Committee and the Homeland Security Committee.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for yielding.

Mr. Speaker, it is probably the highest honor of my life is to serve in this House, and as a part of that to serve on the Judiciary Committee. I have great respect for the members of that committee and the work that we do. But in some ways, I would echo the comments of the gentleman from New York, although I would not agree with his conclusions, of the disappointment that this primary obligation of the Judiciary Committee, that is to deal with legislation that goes to the common defense of this Nation, would be viewed in the legislative agenda as an afterthought.

I am the author of the sunset provisions from the 2005 extension of the PATRIOT Act. I put those sunset provisions in, or I offered them and got the support of Members on both sides of the aisle precisely because I understood there was some controversy about those three, and that there was a need for us to take a serious look at it.

Unfortunately, while we have established other priorities in this Congress, in this House, it does not appear that the PATRIOT Act has been one of them. Because if it were otherwise, we would be spending hours, if not days, on this floor talking about the implications of the PATRIOT Act. And in the context of that debate, I am absolutely assured that the vast majority of this House would support the continuation of these provisions, as is the conclusion of this administration.

These three provisions provide tools for our intelligence community to not only connect the dots, but gather the dots. There seems to be a misunderstanding at times that if we were to take some of these provisions and establish a higher degree of proof, or a higher degree of suspicion that somehow that would make these tools more available. That I believe is a misunderstanding of some of these tools. These tools allow to us start the search. You don't know if someone is involved with a terrorist group under some circumstances.

Someone like Abdulmutallab, having his father come to the embassy and just report his suspicions about his son would not be sufficient for us to believe that he was necessarily allied with some terrorist group. In fact, you would believe that by the terms of the lone wolf provision, he would be right squarely in the middle of that provision. And yet what did our committee do? Our committee decided that because it had not been used before, we should reject it. Well, you know, we were never hit by airplanes with unbelievable amounts of fuel and human beings into towers in New York until it happened. Now, the argument that, well, it never happened before so we shouldn't have been prepared for it doesn't ring true.

And so while I believe that we did take a look at these three provisions in our committee, I was extremely disappointed by the resolution of that review. And we could, it seems to me, if we had this as a priority, bring this bill to the floor, look at it and say if it is important enough for us to have these tools against al Qaeda and similarly situated terrorist groups and individuals, then maybe we ought to extend it for more than a year. Does anybody on this floor, does anybody within the reach of my voice believe that al Qaeda is going to stop 1 year from the 28th of this month?

Maybe we have a new 72-hour rule. We have been talking about a 72-hour rule meaning we should have bills on the floor for 72 hours. Here we have the fact that we wait until we are within 72 hours of the expiration of key parts of the law which allow us to protect ourselves against terrorists before we act. The American people must be scratching their heads and saying, This is the leadership we look for? These are the people who take an oath to the Constitution and to give us the ability to defend ourselves against enemies?

Mr. Speaker, I guess I would say as proud as I am of my service on the Judiciary Committee, I am profoundly disappointed that this bill is being brought forward with just a single year, within a 72-hour space, and we still have not had an examination on this floor of the seriousness of the profound protections of civil liberties contained in these provisions of the law. This is in fact a good law. These are good provisions of that law being utilized by our intelligence community.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Texas. Mr. Speaker, I yield the gentleman an additional 2 minutes.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for the additional time.

So these are individual parts of a law that has served us well. Ironic it is that on the very day that our committee considered the lone wolf provision and decided because it had not been used before we should withdraw it, we had the terrible I won't call it a tragedy, I will call it a terrible terrorist attack at Fort Hood. Within hours of us rejecting the notion that we needed a lone wolf provision, we had a domestic lone wolf. Now, of course the PATRIOT Act does not apply to someone who is an American citizen. But my point is had we had such an attack before that attack took place, doesn't it seem a little nonsensical to say because it hadn't happened before we ought not to have some tools at our disposal which would help us fight it?

Let me just underscore again, these provisions in the law allow our intelligence community to collect the dots. The 9/11 Commission criticized our government for a failure to connect the dots. You need to first have the dots. You need to first have the information. And that is what these tools allow us to provide to our intelligence community so that they can analyze those things.

So Mr. Speaker, I reluctantly support this legislation because it is a mere 1-year extension. It deprives us of the debate that should be front and center of this representative body. If we truly believe our first obligation is to protect the people we represent, we must provide for the common defense. The PATRIOT Act does this. These provisions do this. We should act on this with full knowledge, full debate, and full confidence in our intelligence communities that we can move forward and protect the American people.

Mr. CONYERS. Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I am happy to yield 4 minutes to an esteemed senior member of the Judiciary Committee, the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. I thank my friend from Texas, and thank him for elevating me to the esteemed status. I am not sure I deserve that.

Mr. Speaker, I don't want to be a prophet of gloom and doom, but there are many people in this world who every night retire, prior to sleeping, with one thought in mind, and that one thought is destroy America. The PATRIOT Act has served as a useful impediment to thwart that effort of destruction, and it must not be allowed to expire.

The majority has had over a year to reauthorize the three expiring provisions, but we failed to do so. In 2005, Mr. Speaker, I chaired the Crime Subcommittee of Judiciary, and we oversaw nine hearings to thoroughly examine all of the intelligence-gathering provisions of the PATRIOT Act. The Republican-led Judiciary Committee completed these and additional full committee hearings, a full committee markup, and floor consideration to reauthorize nearly one dozen provisions, all prior to the August recess.

□ 1700

The current majority, Mr. Speaker, has conducted only one subcommittee hearing, a markup, but still hasn't brought a commonsense bill to the full House floor.

Again, I don't want to promote gloom and doom, but time could be running out on us because one of these days, one of these people who retire with that, before they fall asleep with the one desire to destroy America, they may result in success. We need the impediment to stand thoroughly against this effort, and that impediment, among others, is the PATRIOT Act.

Mr. CONYERS. Mr. Speaker, I am pleased now to yield to SHEILA JACKSON LEE, a senior member on the Judiciary Committee, who will be our closing speaker; and I will yield to her as much time as she may consume.

Ms. JACKSON LEE of Texas. Mr. Chairman, sometimes we come to the floor, Mr. Speaker, but we don't understand, really, the impetus and the importance of the work that is being done here.

To my colleagues, what we are doing is securing the American people. We know that right now there is a major debate that is occurring with leadership dealing with health reform. We will also be addressing the question of jobs. But let it be very clear, nothing is going to stop us from addressing the question of national security.

Chairman CONYERS has been working on the reform and the refitting, if you will, of the PATRIOT Act to make sure that it provides more security for the American people.

I just came from a hearing on Homeland Security of which I am a member, with the Secretary of Homeland Security, asking hard questions about the reinforcement of security, the provisions of support for personnel at the Department of Homeland Security, and the ability to give more resources so that the traveling public can be secure.

In this instance, we are acting expeditiously and responsibly, because what is now occurring is that we are providing for the extension of the PATRIOT Act so we can, in fact, engage the other body and work constructively, one, to, with no doubt, commit ourselves, as the President has done, in committing to use every instrument of national power to fight terrorism, including intelligence and military operations, as well as the criminal justice system. That's the Judiciary Committee.

There's never been a doubt about the commitment of the Obama administration or the Judiciary Committee, the chairman and our colleagues in the other body. But it is important for us to handle our business and to do our duty, and that is to look with a fine-toothed comb at the PATRIOT Act to ensure that it does not violate the rights of Americans. No matter what your political persuasion, you have a sense of understanding of the Constitution. You understand due process. You understand unreasonable search and seizure. And so it is our obligation to do so.

As I listened to the debate on the Intelligence bill, I was struck by the efforts that have been made to shore up any of the missing links to provide us a pathway away from the Fort Hood incident or the Christmas Day bombing. And one of the things I want to emphasize is the importance for horizontal integration: Homeland Security, Department of Justice, Intelligence, the agencies dealing with national security as we attempted to do after 9/11. We must ramp up the coordination of information. There must be a focus not only on enhanced coordination, which is the premise of the PATRIOT Act, to get information and to ensure the obligation to ensure your civil liberties; but we must also be somewhat unique and distinct on how we assess who might be a threat.

I have constantly asked that we consider this thing called human assessment and behavior. A lot of people will call for profiling and that that's the way to do it. And I can tell you, colleagues, that you can profile from this morning until the end of time, and you will miss someone who doesn't fit the caricature, if you will, of who you might think happens to be a terrorist. Timothy McVeigh didn't fit that profile.

And so it is important for them to be developed human intelligence and human behavior assessment. That would have been an appropriate approach to the captain at Fort Hood. That's not profiling; it's assessing the behavior of interacting on the Internet, of speaking to the imam in Yemen, very conspicuous behavior that was assessed in Washington before he was transferred to Fort Hood, behavior that was not transmitted, if you will, in the right way.

And then we can look at the Christmas Day bomber, which we hope will never happen again. We had the shoe bomber. And so behavior should send up a red flag.

When we look at the premise of the PATRIOT Act, it is gathering information. And I know my colleagues would not want us to rush to judgment. And so what we have in place now is the opportunity for America to be protected, to use this cross-signal of information.

Might I also mention the assessment of the actions of the Department of Justice. There's not been one moment of a decision that has jeopardized the American people. Yes, there's been a decision that initially was accepted by local officials, as we understand it, to try individuals in a particular area.

There were provisions, obviously, to be made for that. That decision alone and whatever happens on the decision after about where that trial will be held has nothing to do with undermining America's security.

We have Mirandized people before, and they have given us information and we've garnered that information to use for our security. We have tried people in the civilian courts under our legal system, and we have found them guilty on the basis of what they have done, and we've protected the American people.

So I am concerned that there is some labeling going on, that there is not the convergence of resources in the Obama administration, there's not the work on behalf of the Judiciary Committee chaired by Chairman CONYERS that steadily puts together building blocks to secure the American people.

I hope that we will rise to vote for this extension of the PATRIOT Act to allow this Congress, bipartisan, to sit down and do its work. But in the meantime, would we not be irresponsible if we did not come to the floor today to protect the American people, just as we've done with an authorization of the Intelligence bill which has never been done for over a large number of years. We are now doing that because we believe in the security of the American people.

I look forward to moving forward on this legislation. I look forward to pressing the intelligence community on human behavior assessment now, not tomorrow, but now; and I look forward to us going forward on securing the American people with the tools that the Obama administration is working on.

Mr. Speaker, I rise in support of the motion to concur in the Senate amendments to H.R. 3961—Extending Expiring Provisions of the USA PATRIOT Improvement and R. 2082. I support this motion to extend expiring amendments though I offered several amendments as we debated this issue in the Judiciary Committee that I believe would have made the existing provisions of the ACT more effective.

H.R. 3961 extends for one year—through Feb. 28, 2011—three antiterrorism provisions which would otherwise expire on February 28, including the "roving wiretap" authority that allows the government to conduct surveillance on suspects who communicate on multiple devices, or repeatedly change their cell phone numbers or carriers; a provision that permits federal law enforcement authorities to seek a court order for "any tangible thing" they deem related to a terrorism investigation such as business records; and the "lone wolf" provision that allows for surveillance of terrorists who are not connected to terrorist groups.

The measure also extends, for one year, a provision under current law that expanded authority to access records or "any tangible item," including business and library records, through the use of Section 215 orders. The provision has been one of the focal points of criticism of the PATRIOT Act, uniting liberals and libertarians who express concern that it was too broadly written and could have allowed the government to access a virtually unlimited range of records.

Mr. Speaker, prior to the enactment of the USA PATRIOT Act, court orders requested under the Foreign Intelligence Surveillance Act (FISA) for access to business records had to assert that there were "specific and articulable facts giving reason to believe that the person to whom the records pertain [was] a foreign power or an agent of a foreign power." The law limited these records to those of hotels, motels, car and truck rental agencies, and storage rental facilities.

The provision in the USA PATRIOT Act modified requirements for a FISA court order to include "any tangible things"—such as library or bookstore records—regardless of the business or individual holding the item, as long as law enforcement officials assert that the records are sought in an effort to obtain foreign intelligence or in a terrorism investigation. An application for access to business records under this provision must provide a "statement of facts" proving that the information sought is "relevant" to the investigation.

A September 2009 letter from the Justice Department reports that the FISA court had issued about 220 orders to produce business records over the period of 2004 to 2007. The letter noted that 173 of those orders were issued prior to 2006 in combination with FISA pen register orders "to address an anomaly in the statutory language that prevented the acquisition of subscriber identification information normally associated with pen register information." The 2006 reauthorization of the Patriot Act included language to clarify the law, and the Justice Department says the change made the use of the "business records" provision for such information unnecessary. The remaining business records orders were used to obtain transactional information that did not fall within the scope of other authorities.

The department called on Congress to reauthorize this provision because there would "continue to be instances in which FBI investigators need to obtain information that does not fall within the scope of national security letter authorities and are operating in an environment that precludes the use of less secure criminal authorities."

My amendment would have made an improvement to the public's oversight of the PATRIOT Act by extending the life of these intrusive government surveillance programs for two years rather than four years as proposed. Specifically, my amendment focused on Sections 102 and 202 of the underlying bill. The change to Section 102 would have extended the sunset dates of roving wiretaps and FISA business records to December 31, 2011 rather than 2013. The change to Section 202 provides a sunset date of December 31, 2011 rather than December 31, 2013 for national security letters, with the effect of expediting the return of the relevant national security letter statutes to their statuses as they read on October 25, 2001.

These proposed changes in those amendments that I offered in the Judiciary committee focused on the idea of increasing public oversight and transparency. These changes would have permitted Congress to review these sections in two years rather than four years. In two years, we may find that these tools are in fact unnecessary, or that new tools are required.

Mr. Speaker, the motion also extends, for one year, a provision that allows law enforcement officials to pursue terrorists who use multiple devices, or change cell phone numbers or carriers repeatedly to thwart surveillance efforts under FISA. The law permits authorities to obtain multipoint or "roving" wiretaps so that officials do not have to file multiple applications to continue their investigation.

Under current law, applications for a wiretap do not have to include specific information on the location of the wiretap or the names of third parties who would be involved in assisting authorities with setting up the wiretap. Instead, court orders apply to the person or persons and not a particular device or location. Under prior law, the government would have to return to the FISA court for an order that named the new communications carrier, landlord, etc., before tapping the new device or location.

The law requires the FISA court to base its finding on "specific facts" included in an application, and it requires court orders for roving wiretaps to describe in detail the specific target in cases in which the target's identity is unknown. In the cases when the location of surveillance was unknown at the time of a court order, investigators would be required to notify the court within 10 days of the start of surveillance at any new location. The court can extend this notification time to up to 60 days.

According to a September 2009 letter from a Justice Department official, the provision has "proven an important intelligence-gathering tool in a small but significant subset of FISA electronic surveillance orders." The letter noted that this authority is only available when the government is able to provide specific information that the target of surveillance may engage in counter-surveilance activities. The letter noted that the government has sought to use it "in a relatively small number of cases (on average, twenty-two applications per year)."

Additionally, the measure extends by one year the so-called "lone wolf" provision that allows federal law enforcement officials to seek warrants from the Foreign Intelligence Surveillance Court to conduct surveillance on suspected individuals or "targets" who are engaging in international terrorism activities or preparation for such activities, but cannot be connected to terrorist groups or foreign nations. The provision applies only if the target is not a United States person, i.e., is not a citizen, legal immigrant or resident.

Before 2004, national security officials had to show a court that a target was an agent of a foreign power, or acting on behalf of a foreign power, in order to get permission to monitor him or her, which some argued prevented monitoring a lone wolf operating as an individual. According to the Justice Department, the authority was aimed at situations in which information linking a target to an international group is absent or insufficient, but where the target's engagement in "international terrorism" has been sufficiently established. The department noted that in practice, the government "must know a great deal about the target," but must also be unable to connect that person to any group meeting the definition of "foreign power" under FISA.

A Justice Department official, in a September 2009 letter, stated that the department had never filed a FISA application using this provision since it became law in 2004, but

stated the department's support for reauthorizing the provision because of potential situations in which it could be the only avenue for surveillance.

Mr. Speaker, I believe it is very important that we extend the expiring provisions of the PATRIOT Act and urge my colleagues to join me in supporting the motion and work to restore civil liberties and secure America.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi, an active member of the Judiciary Committee and a former city prosecutor, Mr. HARPER.

Mr. HARPER. Mr. Speaker, the purpose of the PATRIOT Act is to keep suspected terrorists under surveillance in an attempt to prevent another attack on our country like we suffered on September 11, 2001. I believe that it has been successful, and I support its extension. I firmly believe that our safety for the nearly 8½ years since 9/11 is due in part to the PATRIOT Act and the fine men and women who are able to use it each day to keep our country safe from harm.

I particularly believe that the lone wolf provision which allows for the surveillance of individual terrorists who might not be part of a larger international terrorist group is very important, and I'm very happy to see its inclusion in this extension.

I applaud those who worked in a bipartisan manner to pass this legislation in 2001, and I look forward to seeing that provisions of the PATRIOT Act continue to be used in an effort to keep Americans safe.

While I wish that a bill with the intention of extending the PATRIOT Act for longer than a year would have been before the House, I support the legislation before us today. I hope that my colleagues will join with me in supporting the extension of this very important counterterrorism tool.

Mr. CONYERS. Mr. Speaker, I continue to reserve.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to my colleague from Texas, a senior member of the Intelligence Committee, Mr. THORNBERRY.

Mr. THORNBERRY. Mr. Speaker, I appreciate the distinguished ranking member yielding to me.

Mr. Speaker, it is very, very important that we ensure that our intelligence professionals and our law enforcement professionals have the tools and the support they need to do their job. And we should never forget that their job is to protect us and prevent further terrorist attacks from killing Americans.

Now, over the course of the day today, as we consider the Intelligence authorization bill, there have been a lot of words spoken in support of those intelligence and law enforcement professionals. But I would suggest that actions matter more than words. One of the actions we can take is to ensure that they have the tools they need to gather the information to stop terrorist plots. And these three expiring provisions of the PATRIOT Act that are being renewed for a year under this bill are some of the critical tools they need to gather that information and to protect us.

Mr. Speaker, I count about eight plots or attempted terrorist attacks since last summer that have made the press, that have been stopped or thwarted in some way or another. One of them, unfortunately, was successful, and that was the attack at Fort Hood. One of them was stopped out of sheer luck and the awareness of passengers on the Christmas Day bombing attack over Detroit. But a number of the other attempted attacks or plots over the past few months and years have been stopped, I believe, because of the tools included in the PATRIOT Act that have helped prevent American casualties. And I would suggest we cannot afford a single day without those tools, including the three that are extended over the course of this bill.

I would prefer, as others have said, that it were longer than a year. But it is absolutely critical that we not allow them to expire and that we put them at least on somewhat of a longer term basis so that these professionals can actually do their job.

I would just say, Mr. Speaker, that in addition to the tools, legal authorities, financial resources that are necessary for them to do their job to protect us, we also must provide these professionals in the intelligence community and the law enforcement community the support they need to do their job. And it is not supporting them, for example, to have a special prosecutor appointed by the Justice Department of this administration to re-investigate interrogators that have already been investigated. And it would not be supportive if we adopt the provision we've talked about earlier today, to establish new crimes against interrogators. They deserve the tools and support. Both can come today with the right votes.

Mr. CONYERS. I'm pleased now to recognize a former senior member of the Intelligence Committee for over 10 years—she served as ranking member—and I yield now to JANE HARMAN as much time as she consumes.

Ms. HARMAN. I thank Mr. CONYERS for yielding and commend him for his leadership of the Judiciary Committee. He has authored many bills which I am proud to cosponsor, one of which includes amendments to these three expiring provisions of the PATRIOT Act.

I rise today because I think we are missing an opportunity. There are good ideas in this House about how to curb the abuses with national security letters, how to clarify that roving wiretaps are limited to a single identifiable target, and how to eliminate the lone wolf provision which has never been used and for which existing title III authority can suffice. Those ideas have been the subject of hearings in the Judiciary Committee, but they're not being debated on this floor.

Instead, we hear that the only way to protect America is to extend the PATRIOT Act as is for another year. We could have extended it for a shorter period and fully debated how to amend the PATRIOT Act on this floor. I think this is a real missed opportunity. As one who was here when we first passed The PATRIOT Act, I recognize that my approach has been controversial.

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I am one of very few Members who opposed initially rolling back the so-called library provision, which I agree was an overreach in the initial PATRIOT Act. But I opposed rolling it back because the amendment as initially drafted included eliminating access to Internet sites at libraries. And as one who studies the terrorism threat carefully, I know that terrorists use the Internet frequently as a way to communicate. So when the library provision was finally drafted to exclude Internet sites, I proudly voted for it.

The PATRIOT Act is a valuable tool. Those who have spoken on the other side are right, we need it. But we have enough knowledge in this House to tweak it to be much more fair to innocent Americans who have inadvertently been caught up in its web.

Let me also mention that under the Intelligence Reform Act of 2004, we required that the White House establish a privacy and civil liberties commission to oversee the development and implementation of laws with respect to terrorism. That commission was never fully established in the last administration, and this administration has yet to name a chairman and a vice chairman.

I urge the President again to fully implement the provisions of the 2004 Intelligence Reform Act. Standing up that commission would send a message that we can protect our security, but we can also protect our liberty. This is not a zero-sum game.

And let me finally address something we will hear as we close debate on the Intelligence authorization bill, and that is a view by some that we should bar trials or terrorist suspects in Article III courts.

The prior administration tried virtually everyone charged with terrorism-related crimes in Federal court. Most of those people were convicted and are now incarcerated. There was a 90 percent conviction rate over hundreds of trials since 9/11. In contrast, military commissions convicted three people, two of whom are no longer serving.

So if you just look at the conviction rate, we are safer if we use article III courts.

In a letter from Secretary Gates and Attorney General Holder dated today to the leadership, they express their opposition to any legislation or amendments that would restrict the ability of the executive branch to effectively prosecute alleged terrorists in Federal courts or reformed military commissions in the United States.

Their point, and my point, is we can have reformed military commissions—

and I know that the President and many here are considering reforms which I may support—but we also must permit robust use of our Federal courts. I think it's disingenuous to claim that after 300 people have been sent to jail for long sentences, we can't safely try terrorists in U.S. courts under Federal law. I agree with Secretary of Defense Gates and Attorney General Holder that such an amendment would make us less safe by removing a critical tool from the Nation's arsenal, and that's the use of our Federal justice system.

In conclusion, we must live our values. When we fail to do that, we offer a huge recruiting tool to those who would attack us. If we live our values by carefully amending expiring PATRIOT Act provisions, by standing up a privacy and civil liberties board and by saying that Federal Courts can try many of those we apprehend for terrorism-related crimes, we have the best chance of winning in this era of terror.

Madam Speaker, I take a backseat to no one in the effort to defeat the terror threat against us. I take the threat very seriously. I read proposed legislation carefully. Today, we could have, as Mr. NADLER suggested, passed a short-term extension and then had a robust public debate about amendments to expiring PATRIOT Act provisions. This is a missed opportunity and I oppose the extension.

Mr. SMITH of Texas. I am prepared to close. I will reserve my time.

Mr. CONYERS. How many minutes remain?

The SPEAKER pro tempore. The gentleman from Michigan has 2 minutes remaining.

Mr. CONYERS. I reserve my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, extending the expiring provisions of the PATRIOT Act will give our law enforcement officials and intelligence agents the authority they need to meet terrorists' threats. It is unfortunate, though, that some reject a long-term reauthorization. Refusing to reauthorize our national security laws for the long term signals weakness to our enemies. It says we are not serious about protecting American lives.

Repeated extensions of this law create uncertainty for intelligence officials and increase the danger that intelligence is missed and threats unidentified. The PATRIOT Act is not broken. And if it isn't broken, we shouldn't try to fix it.

Congress has already undertaken a sweeping review of the PATRIOT Act following extensive hearings in the Judiciary Committee. We approved a reauthorization in 2006 that made permanent all but three provisions and enhanced important civil liberty protections. The Obama administration, a bipartisan Senate, and House Republicans all support a long-term reauthorization of the PATRIOT Act.

Mr. Speaker, while I support this bill, our national interests would have been better served if we had considered a long-term extension. Mr. Speaker, I urge my colleagues to support this legislation even though a long-term piece of legislation would have been a much-improved situation.

I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield the remainder of our time to the distinguished gentleman from Ohio, DENNIS KUCINICH.

Mr. KUCINICH. I thank Mr. CONYERS.

I rise in opposition to H.R. 3961, legislation to extend the expired provisions of the PATRIOT Act. The three provisions being extended today include the ''roving wiretaps,'' which allow the Foreign Intelligence Surveillance Court to issue secret orders to wiretap any target without having to specify the target or the device. This extension also includes the ''lone wolf'' surveillance provision, which allows intelligence agencies to conduct investigations of non-U.S. individuals not connected to a foreign power or terrorist group, a provision that the administration has never had to use. Finally, this legislation would extend section 215 powers of the PATRIOT Act, which allows the government to order any entity to turn over ''any tangible things'' as long as it specifies its for ''an authorized investigation.'' Section 215 orders constitute a serious violation of Fourth and First Amendment rights by allowing the government to demand access to records often associated with the exercise of First Amendment rights, such as library records.

Through years of documentation evidencing abuse of these provisions during the Bush administration, the Department of Justice has failed to hold Bush administration officials accountable for illegal domestic spying by barring any lawsuits to be brought against those officials. Months into this administration, The New York Times reported that the National Security Agency had ''intercepted private e-mail messages and phone calls of Americans in recent months on a scale that went beyond the broad legal limits'' and that the practice was ''significant and systematic.''

Passage of this legislation continues to make Congress complicit in the violations of constitutional rights.

A letter written by the American Bar Association in 2005 to Congress expressed grave concern over ''inadequate congressional oversight of government investigations undertaken pursuant to the Foreign Intelligence Surveillance Act'' . . . ''to assure that such investigations do not violate the First, Fourth, and Fifth Amendments.''

As Members of Congress swore to protect the rights and civil liberties afforded to us by the Constitution, we have a responsibility to exercise our oversight powers fully, and significantly reform the PATRIOT Act, ensuring that the privacy and civil liberties of all Americans are fully protected. More than 8 years after the passage of the PATRIOT Act, we failed to do so. As National Journal correspondent Shane Harris recently put it, we've witnessed the rise of an ''American Surveillance State.'' We've come to love our fears more than we love our freedoms.

Mr. BLUMENAUER. Mr. Speaker, in 2001, I voted against the USA PATRIOT Act because it granted law enforcement powers too broad, too removed from oversight, and at the expense of Americans' civil rights. I am disappointed that H.R. 3961 simply extends three of these provisions without any additional protections or oversight.

This is a missed opportunity to rebalance the need to pursue violent extremists with the need to respect our own citizens. Continuing to allow the government to obtain "any tangible thing" relevant to a terrorism investigation, including library records, is a disturbingly low bar. We can do better.

Committees in the House and Senate have offered drafts to improve the PATRIOT Act, and I strongly suggest that we move forward immediately to amend this law.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1109, the previous question is ordered.

Pursuant to clause 1(c) of rule XIX, further proceedings on this motion are postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Any record vote on the postponed question will be taken later.

TEMPORARY EXTENSION ACT OF 2010

Mr. MCDERMOTT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4691) to provide a temporary extension of certain programs, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4691

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 ''Temporary Extension Act of 2010''.

SEC. 2. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''February 28, 2010'' each place it appears and inserting ''April 5, 2010'';

(B) in the heading for subsection (b)(2), by striking ''FEBRUARY 28, 2010'' and inserting ''APRIL 5, 2010''; and

(C) in subsection (b)(3), by striking ''July 31, 2010'' and inserting ''September 4, 2010''.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families