

and we should avoid aggravating these sensitivities by changing the reporting agency.

The bill would update the reporting requirements currently in place with one additional reporting requirement. Specifically, the bill would require the wiretap reports prepared beginning in calendar year 2000 to include information on the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order.

Encryption technology is critical to protect sensitive computer and online information. Yet, the same technology poses challenges to law enforcement when it is exploited by criminals to hide evidence or the fruits of criminal activities. A report by the U.S. Working Group on Organized Crime titled, "Encryption and Evolving Technologies: Tools of Organized Crime and Terrorism," released in 1997, collected anecdotal case studies on the use of encryption in furtherance of criminal activities in order to estimate the future impact of encryption on law enforcement. The report noted the need for "an ongoing study of the effect of encryption and other information technologies on investigations, prosecutions, and intelligence operations". As part of this study, "a database of case information from federal and local law enforcement and intelligence agencies should be established and maintained." Adding a requirement that reports be furnished on the number of occasions when encryption is encountered by law enforcement is a far more reliable basis than anecdotal evidence on which to assess law enforcement needs and make sensible policy in this area.

The final section of this bill would codify the information that the Attorney General already provides on pen register and trap and trace device orders, and require further information on where such orders are issued and the types of facilities—telephone, computer, pager or other device—to which the order relates. Under the Electronic Communications Privacy Act ("ECPA") of 1986, P.L. 99-508, codified at 18 U.S.C. §3126, the Attorney General of the United States is required to report annually to the Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice. As the original sponsor of ECPA, I believed that adequate oversight of the surveillance activities of federal law enforcement could only be accomplished with reporting requirements such as the one included in this law.

The reports furnished by the Attorney General on an annual basis compile information from five components of the Department of Justice: the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service and the

Office of the Inspector General. The report contains information on the number of original and extension orders made to the courts for authorization to use both pen register and trap and trace devices, information concerning the number of investigations involved, the offenses on which the applications were predicted and the number of people whose telephone facilities were affected.

These specific categories of information are useful, and the bill we have introduced would direct the Attorney General to continue providing these specific categories of information. In addition, the bill would direct the Attorney General to include information on the identity, including the district, of the agency making the application and the person authorizing the order. In this way, the Congress and the public will be informed of those jurisdictions using this surveillance technique—information which is currently not included in the Attorney General's annual reports.

The requirement for preparation of the wiretap reports will soon lapse so I am delighted to see the Senate take prompt action on this legislation to continue the requirement for submission of the wiretap reports and to update the reporting requirements for both the wiretap reports submitted by the AO and the pen register and trap and trace reports submitted by the Attorney General.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the committee amendments be agreed to, the bill be considered read for a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 1769), as amended, was read the third time and passed, as follows:

S. 1769

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 "Continued Reporting of Intercepted Wire, Oral, and Electronic Communications Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Section 2519(3) of title 18, United States Code, requires the Director of the Administrative Office of the United States Courts to transmit to Congress a full and complete annual report concerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications. This report is required to include information specified in section 2519(3).

(2) The Federal Reports Elimination and Sunset Act of 1995 provides for the termination of certain laws requiring submittal to Congress of annual, semiannual, and regular periodic reports as of December 21, 1999, 4 years from the effective date of that Act.

(3) Due to the Federal Reports Elimination Act and Sunset Act of 1995, the Administra-

tive Office of United States Courts is not required to submit the annual report described in section 2519(3) of title 18, United States Code, as of December 21, 1999.

SEC. 3. CONTINUED REPORTING REQUIREMENTS.

(a) CONTINUED REPORTING REQUIREMENTS.—Section 2519 of title 18, United States Code, is amended by adding at the end the following:

"(4) The reports required to be filed by subsection (3) are exempted from the termination provisions of section 3003(a) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66)."

(b) EXEMPTION.—Section 3003(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66) is amended—

(1) in paragraph (31), by striking "or" at the end;

(2) in paragraph (32), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(33) section 2519(3) of title 18, United States Code."

SEC. 4. ENCRYPTION REPORTING REQUIREMENTS.

(a) Section 2519(2)(b) of title 18, United States Code, is amended by striking "and (iv)" and inserting "(iv) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order, and (v)".

(b) The encryption reporting requirement in subsection (a) shall be effective for the report transmitted by the Director of the Administrative Office of the Courts for calendar year 2000 and in subsequent reports.

SEC. 5. REPORTS CONCERNING PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 3126 of title 18, United States Code, is amended by striking the period and inserting " , which report shall include information concerning—

"(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

"(2) the offense specified in the order or application, or extension of an order;

"(3) the number of investigations involved;

"(4) the number and nature of the facilities affected; and

"(5) the identity, including district, of the applying investigative or law enforcement agency making the application and the person authorizing the order."

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 383 through 392 and all nominations on the Secretary's desk in the Air Force, Army and Navy. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nomination be printed in the RECORD, and the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF DEFENSE

Cornelius P. O'Leary, of Connecticut, to be a Member of the National Security Education Board for a term of four years.

Alphonso Maldon, Jr., of Virginia, to be an Assistant Secretary of Defense.

John K. Veroneau, of Virginia, to be an Assistant Secretary of Defense.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. John P. Jumper, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Gregory S. Martin, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Bruce A. Carlson, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under Title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stephen B. Plummer, 0000

IN THE ARMY

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. William F. Smith, III, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general, Medical Corps

Col. Lester Martinez-Lopez, 0000

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Celia L. Adolphi, 0000

James W. Comstock, 0000

Robert M. Kimmitt, 0000

Paul E. Lima, 0000

Thomas J. Matthews, 0000

Jon R. Root, 0000

Joseph L. Thompson III, 0000

John R. Tindall, Jr., 0000

Gary C. Wattnem, 0000

To be brigadier general

Alan D. Bell, 0000

Kristine K. Campbell, 0000

Wayne M. Erck, 0000

Stephen T. Gonczy, 0000

Robert L. Heine, 0000

Paul H. Hill, 0000

Rodney M. Kobayashi, 0000

Thomas P. Maney, 0000

Ronald S. Mangum, 0000

Randall L. Mason, 0000

Paul E. Mock, 0000

Collis N. Phillips, 0000

Michael W. Symanski, 0000

Theodore D. Szakmary, 0000

David A. Van Kleeck, 0000

George H. Walker, Jr., 0000

William K. Wedge, 0000

NOMINATIONS PLACED ON THE SECRETARY'S
DESK

IN THE AIR FORCE, ARMY, NAVY

Air Force nominations beginning Joseph A. Abbott, and ending Thomas J. Zuzack,

which nominations were received by the Senate and appeared in the Congressional Record of October 27, 1999.

Army nomination of Joel R. Rhoades, which was received by the Senate and appeared in the Congressional Record of October 27, 1999.

Navy nominations beginning George R. Arnold, and ending Todd S. Weeks, which nominations were received by the Senate and appeared in the Congressional Record of October 18, 1999.

UNANIMOUS CONSENT
AGREEMENT—TREATIES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to consider the following treaties on today's Executive Calendar: Nos 4 through 14. I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages, up to and including the presentation of the resolutions of ratification; all committee provisos, reservations, understandings, and declarations be considered agreed to; any statements be printed in the RECORD; and the Senate take one vote on the resolutions of ratification to be considered as separate votes. Further, that when the resolutions of ratification are voted upon, the motions to reconsider be laid upon the table, the President be notified of the Senate's action, and the Senate return to legislative session.

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

TAX CONVENTION WITH ESTONIA

The resolution of ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Republic of Estonia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998 (Treaty Doc. 105-55), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the State Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAX CONVENTION WITH
LITHUANIA

The resolution of ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Republic of Lithuania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998 (Treaty Doc. 105-56), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAX CONVENTION WITH LATVIA

The resolution of ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Republic of Latvia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998 (Treaty Doc. 105-57), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAX CONVENTION WITH
VENEZUELA

The resolution of ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the