

day that we delay is another day that workers would not get transparent financial information on their pension plans. Each day we delay is another day that benefit protections for divorced and surviving spouses aren't made.

Each day that we delay is another day that many of our Nation's airline employees must wait to see if Congress will provide their industry the relief that will allow them to keep their pensions.

The only thing preventing us from appointing conferees is an agreement on the size of the Senate's delegation. The majority leader insisted on limiting the delegation to 12 Members, 7 Republicans and 5 Democrats.

We agree with the two-vote margin. We don't like it, but we agree.

We believe that limiting the number of Democrats to five unnecessarily shortchanges not only Democrats but the entire Senate of the expertise that will prove successful in reaching agreement with the House of Representatives on a bill that can attract a strong majority of support in the Senate.

I repeat. This is not a Senate Republican conference, it is a Senate conference.

We are not contesting the Republicans' desire to have a two-vote advantage when we get to conference, but we believe it is important to have each committee adequately represented.

The majority leader has offered to expand the delegation by one but only if he gets two additional Republican conferees. He said: I will give you one Democrat, but I want two. That is the 9-to-6 ridiculous proposal that has been made. It doesn't have to be 7 to 5. It can be 8 to 6, it can be 9 to 7. I have no problem in selecting people to go on the conference. I certainly don't think it should affect the majority leader. If he doesn't like 8 to 6, let him put another Senator on. Have it 9 to 7.

All we are asking is that a sufficient number of conference, conferees are appointed to the conference. Having 14 conferees in the ratio of 8 to 6 gives the Senate the best opportunity to bring back a bill from conference that will garner support from the Senate.

Let the RECORD be very clear. Democrats have worked closely with our Republican colleagues every step of the way on this legislation. The result has been a very strong bipartisan bill.

I hope that the majority leader will consider his opposition to our request so we can move forward with this conference.

Together, we can improve our Nation's pension system and make America a better place.

RESERVATION OF LEADER TIME

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

USA PATRIOT ACT ADDITIONAL REAUTHORIZING AMENDMENTS ACT OF 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2271, which the clerk will report.

The legislative clerk read as follows.

A bill (S. 2271) to clarify that individuals who receive FISA orders can challenge non-disclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

Pending:

Frist amendment No. 2895, to establish the enactment date of the act.

Frist amendment No. 2896 (to amendment No. 2895), of a perfecting nature.

The PRESIDENT pro tempore. Under the previous order, the time between now and 10 a.m. will be equally divided.

Who seeks time?

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAPO. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VITTER). Without objection, it is so ordered.

All time has expired.

The question now is on agreeing to the Frist amendment numbered 2896.

The amendment (No. 2896) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Frist amendment numbered 2895, as amended.

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

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The result was announced—yeas 81, nays 18, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—81

Alexander	Collins	Hutchison
Allard	Conrad	Inhofe
Allen	Cornyn	Isakson
Baucus	Craig	Johnson
Bayh	Crapo	Kennedy
Bennett	Dayton	Kerry
Biden	DeMint	Kohl
Bond	DeWine	Kyl
Boxer	Dole	Landrieu
Brownback	Domenici	Lautenberg
Bunning	Dorgan	Leahy
Burns	Ensign	Lincoln
Burr	Enzi	Lott
Carper	Feinstein	Lugar
Chafee	Frist	Martinez
Chambliss	Graham	McCain
Clinton	Grassley	McConnell
Coburn	Gregg	Mikulski
Cochran	Hagel	Murkowski
Coleman	Hatch	Nelson (FL)

Nelson (NE)	Sessions	Sununu
Pryor	Shelby	Talent
Roberts	Smith	Thomas
Salazar	Snowe	Thune
Santorum	Specter	Vitter
Sarbanes	Stabenow	Voivovich
Schumer	Stevens	Warner

NAYS—18

Akaka	Feingold	Murray
Bingaman	Harkin	Obama
Byrd	Jeffords	Reed
Cantwell	Levin	Reid
Dodd	Lieberman	Rockefeller
Durbin	Menendez	Wyden

NOT VOTING—1

Inouye

The amendment (No. 2895) was agreed to.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRIME MINISTER OF THE REPUBLIC OF ITALY

RECESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in recess.

The PRESIDING OFFICER. Without objection, it is so ordered. And under the previous order, the Senate will stand in recess until 12 noon for a joint meeting of Congress.

Thereupon, the Senate, at 10:42 a.m., took a recess, and the Senate, preceded by the Assistant Sergeant at Arms Lynne Halbrooks, the Secretary of the Senate, Emily J. Reynolds, and the Vice President of the United States, RICHARD B. CHENEY, proceeded to the Hall of the House of Representatives to hear an address delivered by the Honorable Silvio Berlusconi, Prime Minister of the Republic of Italy.

(The address delivered by the Prime Minister of the Republic of Italy to the joint meeting of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

At 12:01 p.m., the Senate reassembled and was called to order by the Presiding Officer (Ms. MURKOWSKI.)

The PRESIDING OFFICER. The majority leader.

USA PATRIOT ACT ADDITIONAL REAUTHORIZING AMENDMENTS ACT OF 2006—Continued

Mr. FRIST. Madam President, 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 were ordered.

Mr. FRIST. Madam President, I ask unanimous consent that following the passage vote, the Senate vote on the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the conference report to accompany H.R. 3199; I further ask consent that if the motion to proceed is agreed to, the Senate vote immediately on the motion to reconsider and, if agreed to, then the Senate vote on the motion to invoke cloture on the conference report.

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

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. FEINGOLD. Madam President, I have been to the floor several times in the past few days to try to convince my colleagues that we should not be reauthorizing the PATRIOT Act without addressing the legitimate concerns of law-abiding Americans across the country. I am under no illusions that I will have more success making that argument now than I had yesterday, or the week before the recess. And I know that some of my colleagues may be wishing I would sit down and stop badgering them about this. But the stakes are too high to sit idly by while the Senate prepares to disappoint the millions of Americans who have been hoping, asking, advocating for years that we fix the PATRIOT Act.

Some may see the vote we are about to have as relatively trivial. They are mistaken. While the bill we are voting on makes only minor and, to quote the senior Senator from Pennsylvania, cosmetic changes to the PATRIOT Act, its significance is far greater. This bill is, to again quote Senator SPECTER, the "cover" that will allow colleagues to support the PATRIOT Act conference report that was blocked in December. A vote for the bill introduced by my friend from New Hampshire is effectively a vote to perform cosmetic surgery on that ugly conference report. Anyone who opposed that conference report should oppose S. 2271 because cosmetic changes simply don't cut it when we are talking about protecting the rights and freedoms of Americans from unnecessarily intrusive Government powers.

So I ask my colleagues to reconsider their position. The White House, along with its allies, has tried to make life uncomfortable for some of them. It has suggested they are soft on terrorism, that they don't understand the pressing threat facing this country, that they are stuck in a pre-9/11 mindset. These cynical and baseless attacks come from a playbook that the American people are by now very familiar with. Those attacks should be rejected, not accommodated. We can fight terrorism aggressively without compromising our most fundamental freedoms against Government intrusion. The Government grabbed powers it should not have when it passed the original PATRIOT Act and we should not be ratifying that power grab today. The PATRIOT Act reauthorization conference report is flawed. It needs to be fixed. S. 2271 pretends to fix it but I don't think anyone is fooled, least of all our constituents. They are watching and they will want to know how a bill that is so trivial on its face protects their civil liberties. It doesn't. It should be rejected. And the Senate should get down to the serious business

of legislating real fixes to the PATRIOT Act. I urge my colleagues to oppose the bill.

Mr. LEAHY. Madam President, earlier this month, I joined with a majority of Senators in voting to proceed to consideration of S. 2271. I said then that the bill made modest improvements over both the original PATRIOT Act and the reauthorization proposal produced by the House-Senate conference. I said, too, that the bill included one set of changes that I strongly opposed, and that I hoped there would be an opportunity to make further improvements to the bill, the conference report, and the PATRIOT Act.

Regrettably, no sooner had the Senate voted to proceed to S. 2271 than the majority leader filled the amendment "tree" with sham amendments, locking out real amendments that sought to improve the law further. An amendment that I filed but was denied the opportunity to offer would have corrected one of the most egregious "police state" provisions regarding gag orders. Senator FEINGOLD also filed but could not offer amendments aimed at bringing the conference report more in line with the bipartisan reauthorization bill that every Member of the Senate approved last year. In light of the abuse perpetrated by the Republican leadership, I felt compelled yesterday to oppose cloture on the bill and the stifling of meaningful debate.

Today's vote is a different and more difficult matter. Because the Republican leadership obstructed efforts to improve the bill, the "police state" provisions regarding gag orders remain uncorrected. This is a big step backward, in my view, from both the conference report and existing law.

At the same time, the bill takes two steps forward. It modifies a provision I objected to in the conference report that would have required American citizens to tell the FBI before they exercise their right as Americans to seek the advice of counsel. Chairman SPECTER and I worked together to correct this provision; Senator SUNUNU was able to improve it further in this bill and I commend his efforts.

Another significant change provided by the Sununu bill builds upon another objection I had and an idea I shared with him to ensure that libraries engaged in their customary and traditional activities are not subject to national security letters. This is a matter I first raised and feel very strongly about. I commend Senator SUNUNU for the progress he was able to make in this regard.

The bill is intended to clarify that libraries as they traditionally and currently function are not electronic service providers, and may not be served with NSLs for business records simply because they provide Internet access to their patrons. Under this clarification, a library may be served with an NSL only if it functions as a true internet service provider, as by providing services to persons located outside the

premises of the library. I expect that this will occur rarely or never and that in most if not all cases, the Government will need a court order to seize library records for foreign intelligence purposes.

The language I proposed to Senator SUNUNU in this regard was less ambiguous than that to which the Bush-Cheney administration would agree. Still, my intent, Senator SUNUNU's intent and the intent of Congress in this regard should be clear. It is to strengthen the meaning and ensure proper implementation of this provision that I will support this bill. As a supporter I trust my intent will inform those charged with implementing the bill and reviewing its proper implementation.

I will continue to work to improve the PATRIOT Act. I will work to provide better oversight of the use of national security letters and to remove the un-American restraints on meaningful judicial review. I will seek to monitor how sensitive personal information from medical files, gun stores and libraries are obtained, used, and retained. Today, I will join Senators SPECTER, SUNUNU, CRAIG, and others in introducing a bill to improve the PATRIOT Act and reauthorization legislation in several important respects. While we have made some progress, much is left to be done.

Mr. KYL. Madam President, I rise today to comment on S. 2271, which I anticipate that the Senate will overwhelmingly approve today. I support the USA PATRIOT Improvement and Reauthorization Act Conference Report, with the three amendments negotiated contained in S. 2271. It is long past time to reauthorize the USA PATRIOT Act, which has been critical to our efforts to protect Americans. I support the compromise that has allowed this up-or-down vote because I think that the agreement maintains the tools necessary to fight terrorism while further strengthening safeguards to protect Americans' civil liberties just as the conference report itself does.

The conference report clarifies that the recipient of a section 215 FISA business records order or a National Security Letter, NSL, may disclose receipt to an attorney to seek legal advice or assistance and also to those necessary to comply with the request. During House-Senate negotiations, provisions were added allowing the government to request that the recipient tell the government to whom the recipient had disclosed the order or NSL. This provision makes sense because there will be times when the Government will need to know everyone who has been told about a section 215 order or NSL. For example, if there is a leak of the existence of the request, or the recipient's name, that leak may need to be investigated. And we know from the criminal conviction of Lynne Stewart that, unfortunately, sometimes it is the attorneys who are breaking the law.

Some Senators expressed concern that these provisions required all recipients to identify their attorney in all instances. This was a misreading of the language, which would have allowed the government to request the names of individuals to whom subsequent disclosure was made but did not set out a blanket requirement.

Other Senators were concerned that this provision could chill a recipient's right to counsel. It is clear under the law that the constitutional right to counsel would not be implicated or offended by the conference report provision. But in a spirit of compromise, the Administration agreed to modify the provisions such that they could not be used to request the identity of an attorney to whom receipt was disclosed. I support this amendment primarily because there is no way that the agreed-upon language would preclude the use of a grand jury subpoena or other investigative tool in the event of a subsequent leak investigation. So the government will still have tools available to investigate leaks as the need arises—even if the offending party is the recipient's attorney.

The conference report also makes it clear that the recipient of a section 215 FISA business records order can go to court and challenge the order. Some Senators raised concerns that under the conference report a recipient would have explicit rights to consult an attorney about the order and to challenge the order to produce business records, but would not have an explicit right to challenge the nondisclosure order that accompanies such a production order. I think it is likely that a court would entertain a constitutional challenge to the nondisclosure requirement, and nothing we say in a statute is going to change that one way or another. Moreover, it is important to remember that these are court orders—they are reviewed and approved by judges before they are served.

But notwithstanding my confidence that the conference report was fully consistent with Americans' civil liberties, the administration agreed to a compromise that explicitly authorizes judicial review of a section 215 nondisclosure order. I think the agreement is a good compromise—it explicitly allows challenges, but does so without risking national security. Pursuant to the agreed-upon language, a challenge could be brought any time after the first year after the judge issued the section 215 order; the challenge could only be brought in the FISA Court; and the standard of review would be the same as the standard the conference report provides for review of nondisclosure orders accompanying NSLs. The delay is perfectly appropriate and necessary to preserve valuable personnel resources—these orders are approved by judges before issuance, so it makes little sense to allow recipients to challenge the non-disclosure requirement only a week or even a day after the court issues them.

Taking the standard of review from the NSL provisions also makes sense. Not only did that standard pass both the House and Senate, but it affords the appropriate level of deference to the Executive branch's judgments on national security and diplomatic relations.

This standard provides that the FISA Court judge may set aside or modify the nondisclosure order if the judge finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal or counterterrorism investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. If, upon the filing of a challenge to the nondisclosure order, the Attorney General, the Deputy Attorney General, an Assistant Attorney General, or the FBI Director certifies that disclosure may endanger the national security of the United States or interfere with diplomatic relations, the certification is conclusive unless made in bad faith.

Courts have long recognized that national security and diplomatic relations fall within the heartland of the executive branch's responsibility and expertise, and this standard simply recognizes that expertise. By requiring that the certification be made by a Senate-confirmed official before granting it bad-faith review, the conferees added political accountability—and I note that neither the House version nor the Senate version had this additional safeguard.

Finally, some Senators also expressed concern about the applicability of national security letters to libraries. This concern has always seemed to me to be based on a misunderstanding of the NSL statutes. There are several NSL authorities, but each authority only allows the government to request a narrow category of records from a narrow set of institutions. The statute that is generally in the news allows the FBI to request things like customer subscription records from "wire and electronic communication service providers." And we have already made clear in statute what institutions qualify as "wire and electronic communication service providers." The way I read the statute, and the way that experts read the statute, the FBI cannot use an NSL to learn what books you and I are checking out from the library.

But the compromise makes it crystal clear that the FBI may serve an NSL on a library only if that library is acting as a "wire or electronic communication service provider." Just to be clear: we are not changing the set of entities that can be subject to NSLs; we are merely clarifying that libraries can be subject to NSLs only if they perform the functions that make an entity subject to NSLs. I can support this language because it does not create a safe haven for terrorists in libraries. If it did, I could not support the language.

It is well past time to pass this report, which passed the House with

strong bipartisan support. A majority of Americans supports reauthorizing the USA PATRIOT Act, as does a strong bipartisan majority of Senators. I support this compromise.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

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

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—95

Akaka	Dole	Menendez
Alexander	Domenici	Mikulski
Allard	Dorgan	Murkowski
Allen	Durbin	Murray
Baucus	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Feinstein	Obama
Biden	Frist	Pryor
Bingaman	Graham	Reed
Bond	Grassley	Reid
Boxer	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Hatch	Salazar
Burns	Hutchison	Santorum
Burr	Inhofe	Sarbanes
Cantwell	Isakson	Schumer
Carper	Johnson	Sessions
Chafee	Kennedy	Shelby
Chambliss	Kerry	Smith
Clinton	Kohl	Snowe
Coburn	Kyl	Specter
Cochran	Landrieu	Stabenow
Coleman	Lautenberg	Stevens
Collins	Leahy	Sununu
Conrad	Levin	Talent
Cornyn	Lieberman	Thomas
Craig	Lincoln	Thune
Crapo	Lott	Vitter
Dayton	Lugar	Voivovich
DeMint	Martinez	Warner
DeWine	McCain	Wyden
Dodd	McConnell	

NAYS—4

Byrd
Feingold

NOT VOTING—1

Inouye

The bill (S. 2271), as amended, was passed, as follows:

S. 2271

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 "USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006".

SEC. 2. DEFINITION.

As used in this Act, the term "applicable Act" means the Act entitled "An Act to extend and modify authorities needed to combat terrorism, and for other purposes." (109th Congress, 2d Session).

SEC. 3. JUDICIAL REVIEW OF FISA ORDERS.

Subsection (f) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861), as amended by the applicable Act, is amended to read as follows:

"(f)(1) In this subsection—

"(A) the term 'production order' means an order to produce any tangible thing under this section; and

"(B) the term 'nondisclosure order' means an order imposed under subsection (d).

“(2)(A)(i) A person receiving a production order may challenge the legality of that order by filing a petition with the pool established by section 103(e)(1). Not less than 1 year after the date of the issuance of the production order, the recipient of a production order may challenge the nondisclosure order imposed in connection with such production order by filing a petition to modify or set aside such nondisclosure order, consistent with the requirements of subparagraph (C), with the pool established by section 103(e)(1).

“(ii) The presiding judge shall immediately assign a petition under clause (i) to 1 of the judges serving in the pool established by section 103(e)(1). Not later than 72 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the petition. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the production order or nondisclosure order. If the assigned judge determines the petition is not frivolous, the assigned judge shall promptly consider the petition in accordance with the procedures established under section 103(e)(2).

“(iii) The assigned judge shall promptly provide a written statement for the record of the reasons for any determination under this subsection. Upon the request of the Government, any order setting aside a nondisclosure order shall be stayed pending review pursuant to paragraph (3).

“(B) A judge considering a petition to modify or set aside a production order may grant such petition only if the judge finds that such order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the production order, the judge shall immediately affirm such order, and order the recipient to comply therewith.

“(C)(i) A judge considering a petition to modify or set aside a nondisclosure order may grant such petition only if the judge finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person.

“(ii) If, upon filing of such a petition, the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation certifies that disclosure may endanger the national security of the United States or interfere with diplomatic relations, such certification shall be treated as conclusive, unless the judge finds that the certification was made in bad faith.

“(iii) If the judge denies a petition to modify or set aside a nondisclosure order, the recipient of such order shall be precluded for a period of 1 year from filing another such petition with respect to such nondisclosure order.

“(D) Any production or nondisclosure order not explicitly modified or set aside consistent with this subsection shall remain in full effect.

“(3) A petition for review of a decision under paragraph (2) to affirm, modify, or set aside an order by the Government or any person receiving such order shall be made to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall provide for the record a written statement of the reasons for its decision and, on petition by the Government or any person receiving such order for writ of certiorari, the record shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

“(4) Judicial proceedings under this subsection shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

“(5) All petitions under this subsection shall be filed under seal. In any proceedings under this subsection, the court shall, upon request of the Government, review *ex parte* and *in camera* any Government submission, or portions thereof, which may include classified information.”.

SEC. 4. DISCLOSURES.

(a) FISA.—Subparagraph (C) of section 501(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(d)(2)), as amended by the applicable Act, is amended to read as follows:

“(C) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under subparagraph (A) or (C) of paragraph (1) shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.”.

(b) TITLE 18.—Paragraph (4) of section 2709(c) of title 18, United States Code, as amended by the applicable Act, is amended to read as follows:

“(4) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the Director or such designee of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request under subsection (a).”.

(c) FAIR CREDIT REPORTING ACT.—

(1) IN GENERAL.—Paragraph (4) of section 626(d) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)), as amended by the applicable Act, is amended to read as follows:

“(4) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the Director or such designee of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request for the identity of financial institutions or a consumer report respecting any consumer under this section.”.

(2) OTHER AGENCIES.—Paragraph (4) of section 627(c) of the Fair Credit Reporting Act (15 U.S.C. 1681v(c)), as amended by the applicable Act, is amended to read as follows:

“(4) At the request of the authorized government agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized government agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal as-

sistance with respect to the request for information under subsection (a).”.

(d) RIGHT TO FINANCIAL PRIVACY ACT.—

(1) IN GENERAL.—Subparagraph (D) of section 1114(a)(3) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3)), as amended by the applicable Act, is amended to read as follows:

“(D) At the request of the authorized Government authority or the Secret Service, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized Government authority or the Secret Service the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the authorized Government authority or the Secret Service of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request for financial records under this subsection.”.

(2) FEDERAL BUREAU OF INVESTIGATION.—Clause (iv) of section 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(D)), as amended by the applicable Act, is amended to read as follows:

“(iv) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the Director or such designee of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request for financial records under subparagraph (A).”.

(e) NATIONAL SECURITY ACT OF 1947.—Paragraph (4) of section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)), as amended by the applicable Act, is amended to read as follows:

“(4) At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request under subsection (a).”.

SEC. 5. PRIVACY PROTECTIONS FOR LIBRARY PATRONS.

Section 2709 of title 18, United States Code, as amended by the applicable Act, is amended by adding at the end the following:

“(f) LIBRARIES.—A library (as that term is defined in section 213(1) of the Library Services and Technology Act (20 U.S.C. 9122(1)), the services of which include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally by patrons for their use, review, examination, or circulation, is not a wire or electronic communication service provider for purposes of this section, unless the library is providing the services defined in section 2510(15) (‘electronic communication service’) of this title.”.

This Act shall become effective immediately upon enactment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I ask unanimous consent that the following votes in this stacked series be limited to 10 minutes each.

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

USA PATRIOT TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the conference report to accompany H.R. 3199.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The result was announced—yeas 86, nays 13, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—86

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murkowski
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Baucus	Feinstein	Obama
Bayh	Frist	Reid
Bennett	Graham	Reed
Biden	Grassley	Roberts
Bingaman	Gregg	Rockefeller
Bond	Hagel	Salazar
Brownback	Hatch	Santorum
Bunning	Hutchison	Sarbanes
Burns	Inhofe	Schumer
Burr	Isakson	Sessions
Carper	Johnson	Shelby
Chafee	Kennedy	Smith
Chambliss	Kerry	Snowe
Clinton	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Stevens
Coleman	Lautenberg	Sununu
Collins	Lieberman	Talent
Conrad	Lincoln	Thomas
Cornyn	Lott	Thune
Craig	Lugar	Vitter
Crapo	Martinez	Voivovich
DeMint	McCain	Warner
DeWine	McConnell	
Dole	Menendez	

NAYS—13

Boxer	Durbin	Levin
Byrd	Feingold	Murray
Cantwell	Harkin	Wyden
Dayton	Jeffords	
Dodd	Leahy	

NOT VOTING—1

Inouye

The motion was agreed to.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Under the previous order, the question is on agreeing to the motion to re-

consider the vote by which cloture was not invoked on the conference report to accompany H.R. 3199.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—85

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murkowski
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Baucus	Feinstein	Obama
Bayh	Frist	Pryor
Bennett	Graham	Reed
Biden	Grassley	Reid
Bingaman	Gregg	Roberts
Bond	Hagel	Rockefeller
Brownback	Hatch	Salazar
Bunning	Hutchison	Santorum
Burns	Inhofe	Schumer
Burr	Isakson	Sessions
Carper	Johnson	Shelby
Chafee	Johnson	Smith
Chambliss	Kennedy	Snowe
Clinton	Kerry	Specter
Coburn	Kohl	Stabenow
Cochran	Kyl	Stevens
Coleman	Landrieu	Sununu
Coleman	Lautenberg	Talent
Collins	Lieberman	Thomas
Conrad	Lincoln	Thune
Cornyn	Lott	Vitter
Crapo	Lugar	Voivovich
DeMint	Martinez	Warner
DeWine	McCain	
Dole	McConnell	
	Menendez	

NAYS—14

Boxer	Durbin	Levin
Byrd	Feingold	Murray
Cantwell	Harkin	Sarbanes
Dayton	Jeffords	Wyden
Dodd	Leahy	

NOT VOTING—1

Inouye

The motion was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Conference Report to accompany H.R. 3199: The U.S. PATRIOT Terrorism Prevention Reauthorization Act of 2005:

Chuck Hagel, Jon Kyl, John McCain, Richard Burr, Conrad Burns, Pat Roberts, John Ensign, James Talent, C.S. Bond, Johnny Isakson, Wayne Allard, Norm Coleman, Kay Bailey Hutchison, Mel Martinez, John Thune, Jim DeMint, Jeff Sessions, Bill Frist, Arlen Specter.

The PRESIDING OFFICER. The question upon reconsideration is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 3199, the U.S. PATRIOT Terrorism Prevention Reauthorization Act of 2005, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The result was announced—yeas 84, nays 15, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—84

Akaka	Domenici	Menendez
Alexander	Dorgan	Mikulski
Allard	Ensign	Murkowski
Allen	Enzi	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Frist	Obama
Bennett	Graham	Pryor
Biden	Grassley	Reed
Bond	Gregg	Reid
Brownback	Hagel	Roberts
Bunning	Hatch	Rockefeller
Burns	Hutchison	Salazar
Burr	Inhofe	Santorum
Carper	Isakson	Schumer
Chafee	Johnson	Sessions
Chambliss	Kennedy	Shelby
Clinton	Kerry	Smith
Coburn	Kohl	Snowe
Cochran	Kyl	Specter
Coleman	Landrieu	Stabenow
Collins	Lautenberg	Stevens
Conrad	Lieberman	Sununu
Cornyn	Lincoln	Talent
Craig	Lott	Thomas
Crapo	Lugar	Thune
DeMint	Martinez	Vitter
DeWine	McCain	Voivovich
Dole	McConnell	Warner

NAYS—15

Bingaman	Dodd	Leahy
Boxer	Durbin	Levin
Byrd	Feingold	Murray
Cantwell	Harkin	Sarbanes
Dayton	Jeffords	Wyden

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On reconsideration on this question, the yeas are 84, the nays are 15. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I yield my time to Senator LEAHY.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Washington.

Ms. CANTWELL. Mr. President, I yield my 1 hour of postcloture debate to the Democratic leader.

The PRESIDING OFFICER. The Senator has that right.

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I yield the hour I might claim to the Democratic leader, Senator REID.

The PRESIDING OFFICER. The Senator has that right.

Mr. LIEBERMAN. I thank the Chair, and I yield the floor.