suspected terrorism, and not for other domestic purposes. The bill also allow surveillance to follow a person who uses multiple communications devices or locations, the so-called ''roving-wiretap.'' Again, I am hopeful this new authority will not be abused.

We have done our best in this bill to maximize our security while minimizing the impact some of these changes may have on our civil liberties. Nearly all of us have probably said since September 11 that if that day's terror is allowed to undermine our democratic principles and practices, then the terrorists will have won a victory. We should pass this bill today. And we should also commit ourselves to monitoring its impact of civil liberties in the coming months and years.

Our challenge is to balance our security with our liberties. While it is not perfect, I believe we are doing that in this bill.

Madam President, it is a jarring analogy, but I use it to explain how I arrived at my decision on this legislation. In 1940 and 1941, the Germans engaged in an unprecedented attack on the civilian population of Great Britain. The goal was to weaken citizens in their fight against Nazism. At the end of that attack, 20,000 people were killed. On September 11 in our country, close to 6,000 innocent people were massacred.

It is absolutely the right thing to take the necessary steps to try to prevent this from happening and to provide protection to people in our country.

There are many provisions in this legislation with which I agree. They are important to people in Minnesota, Michigan, and around the country, by way of what we need to do to protect our citizens.

When it comes to electronic surveillance, as Senator FEINGOLD has stated with considerable eloquence, the legislation goes too far and goes beyond world terrorists, who I think are a real threat to people in our country and other nations as well.

How do I balance it out? My view is that I support this legislation because all of the positive issues, which I will go into in a moment, that are so important to the people I represent have to do with protecting the lives of people. If we do not take this action and we are not able to protect people, then more people can die, more people will be murdered. That is irreversible. We cannot bring those lives back.

This legislation has a 4-year sunset. I said when the Senate passed the bill that I would reserve final judgment as to whether I vote for the final product based on whether there will be a 4-year sunset when it comes to electronic surveillance. We can monitor—there will be some abuses, I think—we can monitor that, and if there are abuses, it is reversible; we can change it. That is why I err on the side of protecting people, and it is why I support this legislation.

The bill includes measures to enhance surveillance, to improve the working relationships of Federal, State, and local agencies—that has to happen—to strengthen control of the Canadian border. For our States up North, that is very important. When it comes to the detention of certain suspects who may be the subject of investigative efforts, there are safeguards against unlimited detention.

I thank Senator LEAHY and Senator HATCH and others for pulling back from some of the original proposals which made this a much better piece of legislation.

There is a crackdown on money laundering. I thank Senator SARBANES and Senator KERRY and others for their fine work.

There is another provision that is very important. The First Responders Assistance Act and grant program all go together. When I traveled to greater Minnesota last week, when I went to Moorhead, Mankato, Rochester, and Duluth, I spoke with fire chiefs and all said: We are the first responders. We know that from New York. Please get some resources back to the local level. It is a local public safety model where if you give us the resources, let us assess our needs—we have the training; we may need additional equipment—if you are going to talk about the ways we can best protect people, we are going to protect people where they live, where they work, or where their children go to school. Getting the resources to the local community, the fire chiefs, and police chiefs is critically important.

As I said, there are some key civil liberty safeguards. The bill requires certain electronic reports to go to a judge when pen registers are used on the Internet. It includes provisions requiring notification to a court when grand jury information is disclosed, and it contains the 4-year sunset when it comes to the electronics surveillance provisions. That is critically important.

The bill streamlines and expedites the public safety officers benefits application for the firefighters and the police officers and others who were killed and suffered disabling injuries.

It raises the total amount of the Public Safety Officers' Benefits Program.

The Victims Crime Act is in this bill.

It improves the way the crime fund is managed. It replenishes the emergency fund for crime victims up to $50 million. This is really important.

These are the important provisions.

On the other hand, I do wish some of the provisions were more tightly targeted to address only actions directly related to terrorism or suspected terrorism. It is for this reason that I think it is critically important each and every Senator and Representative monitor the use of new authorities provided to the law enforcement agency to conduct surveillance.

We are going to have to monitor this aspect very closely. It has been said, and it should be said, we do not want to pass legislation that undermines our democratic principles or practices. If we do that, the terrorists have won a victory. If I thought this was such legislation, I would not support it.

I will say this one more time: From my point of view, this legislation is better than it was when it passed the Senate. The sunset provision is critically important. Ultimately, where I come down is if we do not take some of these steps with some of the provisions I have outlined, which are very important, very positive in protecting people, and more people are killed and there is more loss of life of innocent people, you cannot bring those lives back.

I am not a lawyer, and this is my layperson way of analyzing this. If there are some abuses with the surveillance, we monitor it, we can pass new legislation, and we can change it. It sunsets in 4 years. That is reversible. I err on the side of protection for people.

I wish we did not even have to consider this legislation. I wish we were not even living in these times. I believe terrorism is going to be a part of our lives. I think it is going to be a part of our children's lives. I think it is going to be a part of our grandchildren's lives. I think this is going to be the struggle for several generations to come. No one action and no one step is going to end it. I think that is now the world, unfortunately, in which we live. That is now the world in which all of God's children live.

There are some things we are going to have to do differently and, as I said, we must be vigilant. Where there are excesses, we need to change that. I do believe this legislation is an important step in the direction of trying to prevent this and providing protection to our citizens.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I support the conference report before the Senate today. It reflects an enormous amount of hard work by the members of the Senate Banking Committee and the Senate Judiciary Committee. I congratulate them and thank them for that work.

I particularly thank Senator DASCHLE, Senator LEAHY, Senator SARBANES, Senator HATCH, and Senator LEVIN for their work in developing this legislation. I am pleased the Conference Report includes what I consider to be a very important provision regarding money laundering that has been hard fought over and, frankly, long awaited for. We have been working on this for quite a few years, almost 10 years or more when I was a member of the Banking Committee and within the Foreign Relations Committee where I was Chairman of the Subcommittee on Narcotics, Terrorism and International Operations. This really is the culmination of much of that work.

I am pleased at the compromise we have reached on the antiterrorism legislation, as a whole, which includes the sunset provision on the wiretapping and electronic surveillance component. It has been a source of considerable concern for people, and I think the sunset provision provides Congress a chance to come back and measure the record appropriately, and that is appropriate.

The reason I think the money-laundering provision is so important is it permits the United States—it really authorizes and gives to the Secretary of the Treasury the power to be able to enforce the interests of the United States. It allows the Secretary to deny banks and jurisdictions access to our economy if in the last measure they are not cooperative in other ways to prevent money laundering from being a tool available to terrorists.

This is a bill I introduced several years ago that assists our ability to be able to crack down on the capacity for criminal elements, not just terrorists, who are criminals themselves. But also narcotics traffickers, arms proliferators, people who traffic in people themselves. There are all kinds of criminal enterprises which benefit from access to the American financial system. All of these will now be on notice that our law enforcement community has additional tools to use to be able to close the incredible benefits of access to the American financial marketplace.

The global volume of laundered money staggers the imagination. It is estimated to be 2 to 5 percent of the gross domestic product of the United States. That is $600 billion to $1.5 trillion that is laundered, that comes into the country or passes through banks without accountability. Those funds escape the tax system, for one thing. So for legitimate governments struggling to fairly distribute the tax base while the average citizen who gets their paycheck deducted or those good corporate citizens and others who live by the rules, they are literally being required to assume a greater burden because other people using the laundering and lack of accountability escape that responsibility.

The effects of money laundering go far beyond the parameters of law enforcement, creating international political issues and generating very genuine domestic political crises. International criminals have taken advantage of the technology and the weak financial supervision in many jurisdictions to simply smuggle their funds into our system. Globalization and advances in communications and technologies have allowed them to move their illicit gains with much more secrecy, much faster, commingled, and in other ways that avoid or complicate significantly the ability of prosecutors to be able to do their job.

Many nations, some of them remote, small islands that have no real assets of their own, have passed laws solely for the purpose of attracting capital illicitly, as well as legally. By having the legal capital that is attracted by virtue of the haven that is created, they provide the cover for all of the illicit money. There are places not so far away from us, islands in the Caribbean and elsewhere, which at last count I remember $400 billion of assets that supposedly belong to this island in about 1 square mile of the downtown area, most of which was the property of entities that had a brass plate on a door and a fax machine inside, perhaps a telephone number, and that was sort of the full extent of the corporate entity.

So there is $400 billion on an island that everybody knows is not on the island. Where does it go? It goes back into the financial marketplace where it earns interest, is invested, goes into legitimate efforts, much of it legitimate money to begin with but a whole portion of it not. I might add, with the knowledge of people involved in those businesses and many of the banks that receive it.

So if one is going to cope with an al-Qaida, with a terrorist entity such as Osama bin Laden, who moves his money into this legitimate marketplace, law enforcement has to have the ability to be able to hold people accountable where it is legitimate to do so.

Now obviously we do not want to do that where there is a legitimate enterprise, and we do not want to create a crossing of the line of the corporate veil that has been protected for a long period of time, and I am not urging that we do that. But we do have to have a system in place, where probable cause exists, for law enforcement entities.

I spent a number of years as a prosecutor. We make pretty good judgments in the law enforcement community about probable cause. They are not always without question, and they are not, obviously, without error at times. We understand that. We have a pretty good system in the United States to protect against that. What we are trying to do with this legislation is to put those protections in place, but even as we put in a series of steps that allow the Secretary of the Treasury to be able to target a particular area as a known money-laundering problem, and then be able to require of the government of that entity, a cooperative effort. It is only if the entity or government's cooperative effort at several different stages is not forthcoming that the Secretary would ultimately consider exercising the power to denying that entity as a whole, or individual banks or other financial institutions, access to our financial marketplace and to its benefits.

I believe this leverage will be critical in our ability to wage a war on terrorism, as well as to be able to wage a sufficient law enforcement effort against the criminal enterprises that exist on a global basis.

I think the Secretary will have a number of different options and it will provide a transparency and an accountability that is absent today.

Let me comment on one criticism that is often raised by some opponents of this legislation who do not like the idea that the United States should somehow put in place sanctions against an entity that has a lower tax rate than we happen to have. I emphasize there is nothing in this legislation that empowers us to take action because another government has a lower tax rate. That is their privilege. It is healthy, as all Members know, to have competition in the marketplace of taxes, too. The Chair is a former Governor and he knows well the competition between States. States will say: We will not have a sales tax; we will not have an excise tax; we will try to make ourselves more business friendly. We want to be as competitive and as low tax as we conceivably can be.

We are not seeking to try to address those jurisdictions that simply make themselves more competitive on a tax basis. What we are trying to address are those jurisdictions that not only have lower taxes but use the lower taxes, coupled with a complete absence of accountability, a complete absence of transparency, a complete absence of living by the law enforcement standards of other parts of the world, to knowingly attract the illicit gains that come from criminal activity or that attract and move terrorist money through the world.

We are simply putting into place the standards by which most of the developed world is living. Ultimately we hope all countries will adopt appropriate money laundering standards so we can all live in a safer world.

Passage of this legislation is going to make it a lot more difficult for new terrorist organizations to develop. I can remember a number of years ago when I was chairing the subcommittee on Narcotics, Terrorism and International Operations, I conducted an investigation into a bank called BCCI, the Bank of Credit Commerce International. We uncovered a complex money-laundering scheme involving billions of dollars. Fortunately, BCCI was forced to close. We were able to bring many of those involved in it to justice. But we have learned since the closing that BCCI was a bank that had a number of Osama bin Laden's accounts. We learned when BCCI closed, we dealt Osama bin Laden a very serious blow.

So as the Congress gives final approval to this legislation in response to these attacks, we need to keep in our focus the benefits that will come to us by pressing these money laundering standards on banks. With the passage of this legislation, terrorist organizations will not be able to move funds as easily and they will not be able to have their people move within our country with bank accounts that we cannot

penetrate, with major sources of funding transferred to them from the Middle East or elsewhere to empower them to be able to do the kind of things they did on September 11.

I also point out this bill will require the U.S. financial institutions to use appropriate caution and diligence when opening and managing accounts for foreign financial institutions. It will actually prohibit foreign shell banks, those who have no physical location in any country, from opening an account in the United States. Think about that. We currently allow a bank that has no physical presence anywhere—a bank—to open an account in the United States. That is today. With this legislation, that will change. It is high time.

The conference report expands the list of money-laundering crimes and will assist our law enforcement efforts in making it easier to prosecute those crimes. It requires the Federal Reserve to take into consideration the effectiveness financial institutions in combating money-laundering activities before any merger is approved. We will have an ability to judge the road traveled before we open up new opportunities for financial institutions.

The following is a description of the legislative intent of the Counter Money Laundering and Foreign Anti-Corruption Act of 2001 which was included in section 311 of subtitle A—International Counter Money Laundering and Related Measures of the conference report. First, the Secretary of the Treasury determines whether ''reasonable grounds exist for concluding'' that a foreign jurisdiction, a financial institution operating in a foreign jurisdiction, or a type of international transaction, is of ''primary money laundering concern.'' In making this determination, the Secretary must consult with the Secretary of State, the Attorney General, the Secretary of Commerce, and the United States Trade Representative. The Secretary is also directed to consider any relevant factor, including the quality of a jurisdiction's bank secrecy, bank supervision, and anti-money laundering laws and administration, the extent to which a particular institution or type of transaction is involved in money laundering as compared to legitimate banking operations, whether the U.S. has a mutual legal assistance treaty with the jurisdiction and whether the jurisdiction has high levels of official or internal corruption.

Second, if a jurisdiction, institution, or transaction is found to be a ''primary money laundering concern,'' the Secretary then selects from a menu of five ''special measures'' to address the identified issue. these five special measures are: requiring additional record keeping and/or reporting on particular transactions; requiring reasonable and practicable steps to identify the beneficial foreign owner of an account opened or maintained in a domestic financial institution; requiring the identification of those using a foreign bank's payable-through account with a domestic financial institution; requiring the identification of those using a foreign bank's correspondent account with a domestic financial institution; and restricting or prohibiting the opening or maintaining of certain corresponding accounts for foreign financial institutions. The special measure relating to the restriction or prohibition of accounts can only be imposed by regulation. However, nothing in this legislation will in any way restrict the right of the Secretary of the Treasury to impose a rule immediately and to ask for comment at the same time. The other four special measures may not remain in effect for more than 120 days, except pursuant to a rule promulgated on or before the end of the 120-day period beginning on the date of the issuance of such order.

In choosing which ''special measure'' to impose and how to tailor it, the Secretary shall consider the extent to which they are used to facilitate or promote money laundering, the extent to which they are used for legitimate business purposes and the extent to which such action will sufficiently guard against money laundering. The Secretary is also to consult with the Chairman of the Board of Governors of the Federal Reserve. If the Secretary is considering prohibiting or restricting correspondent accounts, he is also to consult with the Secretary of State and the Attorney General. The Secretary is also obligated to consider three factors: whether other countries or multilateral groups are taking similar actions; whether the imposition of the measure would create a significant competitive disadvantage for U.S. firms, including any significant cost or compliance; the extent to which the action would have an adverse systemic impact on the payment system and legitimate business; and the effect of such action on United States national security and foreign policy.

Within 10 days of invoking any of the special measures against a primary money laundering concern, the Secretary must notify the House and Senate Banking Committees of any such action taken.

The conference report includes a provision within section 351 relating to reporting of suspicious transactions which clarifies that the ''safe harbor'' from civil liability for filing a Suspicious Activity Report (SAR) applies in any litigation, including suit for breach of contract or in an arbitration proceeding and clarifies the prohibition on disclosing that a SAR has been filed.

Section 353 of the conference report also includes a provision that increases penalties for violation of Geographic Targeting Orders (GTO) by making it a civil and criminal offense on par with existing law to file reports required by a Geographic Targeting Order; requiring structuring transactions to fall below a GTO-lowered threshold a civil and criminal offense on par with structuring generally; and extends the presumptive GTO period from 60 to 180 days.

Finally, section 355 of the conference report includes a provision that grants financial institutions civil immunity for including suspicions of criminal wrongdoing in a written reference on a current or former employer.

It has been brought to my attention that this bill, as originally passed by the House, contained a rule of construction which could have limited our ability to provide assistance and cooperation to our foreign allies in their battle against money laundering. The House-passed rule of construction could have potentially limited the access of foreign jurisdictions to our courts and could have required them to negotiate a treaty in order to be able to take advantage of our money-laundering laws in their fight against crime and terrorism. The conference report did not include a rule of construction because the Congress has always recognized the fundamental right of friendly nations to have access to our courts to enforce their rights. Foreign jurisdictions have never needed a treaty to have access to our courts. Since some of the money-laundering conducted in the world today also defrauds foreign governments, it would be hostile to the intent of this bill for us to interject into the statute any rule of construction of legislative language which would in any way limit our foreign allies access to our courts to battle against money laundering. That is why we did not include a rule of construction in the conference report. That is why we today clarify that it is the intent of the legislature that our allies will have access to our courts and the use of our laws if they are the victims of smuggling, fraud, money laundering, or terrorism. I make these remarks today because there should be no confusion on this issue and comments made by others should not be construed as a reassertion of this rule of construction which we have soundly rejected. Our allies have had and must continue to have the benefit of U.S. laws in this fight against money laundering and terrorism.

Smuggling, money laundering, and fraud against our allies are an important part of the schemes by which terrorism is financed. It is essential that our money laundering statutes have appropriate scope so our law enforcement can fight money laundering wherever it is found and in any form it is found. By expanding the definition of ''Specified Unlawful Activity'' to include a wide range of offenses against friendly nations who are our allies in the war against terrorism, we are confirming that our money laundering statutes prohibit anyone from using the United States as a platform to commit money laundering offenses against foreign jurisdictions in whatever form that they occur. it should be clear that our intention that the

money laundering statues of the United States are intended to insure that all criminals and terrorists cannot circumvent our laws. We shall continue to give our full cooperation to our allies in their efforts to combat smuggling and money laundering, including access to our courts and the unimpeded use of our criminal and civil laws.

Ms. CANTWELL. Mr. President, we must act on many fronts to wage a successful fight against terrorism. The USA Patriot Act of 2001 will provide our law enforcement agencies with significant new tools to fight this battle on the home front. There are many good things in this bill. I am especially pleased that the bill includes language to allow the tripling of manpower on our northern border. The bill also includes a provision to set a new technology standard for our visa program so we can better identify people coming into this country. I am very proud of the many tools in the bill for law enforcement. This legislation increases the number of FISA judges to speed law enforcement's ability to get taps in place and going and contains excellent new provisions to help law enforcement and banks better track and freeze financial assets of terrorists. Further, the bill provides for expedited hiring and training of FBI translators. Finally, the legislation takes steps to allow better sharing of information between the law enforcement and intelligence communities, although I believe this sharing and coordination would be better accomplished with a process for judicial review.

But I have my concerns, as well, with the scope and the pace of these sweeping changes. We may have gone further than we really need to go to address terrorism. Thanks to the extremely hard work of Senator LEAHY and his staff, Senator HATCH and others in both houses of Congress, this legislation is much more carefully tailored to addressing terrorism than the legislation proposed by the Administration only a short month ago. But I remain concerned about several provisions such as those involving wiretap authorities, pen register and trap and trace, computer trespass, access to business records and other new legal authorities which will not require a showing by the government of probable cause or allow for any meaningful judicial review. The scope of these provisions may make them susceptible to abuse—allowing inappropriate, possibly unconstitutional, intrusion into the privacy of American citizens. I am pleased that some of the most disconcerting provisions of this legislation will expire in four years. This ''sunset'' provision will give Congress the opportunity to evaluate the implementation of these new laws, and reassess the need for the changes.

I would like to believe that the government's new ability to place wiretaps on the lines of American citizens—in secret with limited reporting and opportunity for oversight by Congress—will not be abused. I would like to believe that technologies like Carnivore will not be used to derive content from email communications. But I am skeptical.

Several other aspects of this bill, when taken together, could also interfere with Americans' enjoyment of their right to privacy without providing value in the fight against terrorists. Those of us who feel strongly about how new powers might chip away at traditional privacy rights will pay close attention to how law enforcement uses these tools.

The bill's ostensible purpose in regard to searches of personal communication is to facilitate the sharing of information gathered in a law enforcement context with the intelligence community. There is a difference, however, between facilitating the sharing of information between the law enforcement and intelligence communities, and blurring the line between the missions of the two communities. Where information is sought for the purpose of law enforcement, we must ensure that fourth amendment protections apply. Our fear about the legislation comes from a legitimate concern that information gathered ostensibly for intelligence and defense purposes could be used for law enforcement purposes. The intelligence community does not prosecute and lock up its targets; it uses information to intervene against foreign nationals seeking to harm America or Americans. But the law enforcement community has a different mission, to catch and prosecute criminals in our courts of law. Because law enforcement acts upon U.S. citizens, it must do so within the bounds of the Constitution. The differences in these missions must be acknowledged, and we must be vigilant to maintain the distinctions.

Last week, Senator LEAHY and I discussed here on the floor the need to maintain strict oversight of the law enforcement community's use of new authorities enumerated in this legislation. Today I want to reiterate the need for that oversight, the need for regular Government Accounting Office reports to Congress of the use of the new authorities under FISA and pen register and trap and trace law and the need for the Committee on the Judiciary to scrutinize the use of these new authorities regularly. I am pleased that many members of the Senate believe we must pursue this duty diligently.

I am also pleased that the final version of this legislation incorporates a four-year limit on the applicability of these and many other search authorities. With this ''sunset,'' law enforcement and intelligence agencies will be able to use new powers to identify and act on terrorist efforts and Congress will have the ability to review fully the implications of the new law.

We can all agree that the events on September 11 have focused America on the fight against terrorism, and we applaud the efforts of the administration in the weeks since that tragic day. Clearly, there were failures in our investigative network, and this legislation will help avoid such failures in the future, allowing greater sharing of information that could foil terrorists before they carry out their brutal schemes against innocent civilians.

The question then becomes how to make sure that the new authority isn't abused—in fact used for law enforcement purposes or fishing expeditions. Over many years and with great effort, we have crafted a careful balance in protecting personal privacy. The bottom line is this legislation could circumvent or supersede Federal and State privacy laws that have balanced law enforcement needs and privacy concerns, going well beyond the changes to the law needed for intelligence gathering. This is no ordinary time for our country. But in this process we must remember those Fourth Amendment rights that we have so diligently fought for in the past.

I am proud of this Congress for acting promptly and thoughtfully in response to the horrific events of September 11. That day was an awakening to Americans, signaling the urgency for this government to change how we deal with terrorism. This legislation does much to facilitate better information gathering and sharing between our law enforcement and intelligence communities and greater protection of our borders from the intrusion of terrorists. I am hopeful that those of us in government have the wisdom and prudence to use these new powers in such a way as to not undermine the freedoms we seek to protect.

Mr. President, currently, there is no single technology standard in place that allows the Federal Government to confirm with certainty the identity of aliens seeking entry into the United States through the visa program. Insufficient identification technology is available to our consular officers responsible for reviewing visa applications to facilitate a comprehensive background check of persons applying for a United States visa. Consular officers lack the technology to verify that a person seeking a visa has not previously sought or received a visa using another name or identity. Similarly, there is no widely implemented technology that allows United States border inspectors to confirm the identity of persons seeking admittance into the United States using a visa.

Pursuant to Section 403(c) of the USA PATRIOT Act of 2001, the Federal Government is required to develop and implement a technology standard that can facilitate extremely high confidence in confirming the identity of an alien seeking a visa or seeking entry into the United States pursuant to a visa.

The standard required by these provisions will facilitate the capture and sharing of all relevant identity information regarding the alien applicant,