interests all demand that the militias be stopped and that the military must be united in the pursuit of professionalism, accountability, and civilian control.

## THE CLASS ACTION FAIRNESS ACT

Mr. GRAMS. Mr. President, I want to today announce my support for S. 353, the Class Action Fairness Act, just reported by the Judiciary Committee, and announced my intention to complement this legislation by introducing legislation soon that will require lawyers representing plaintiffs in class actions to make preliminary disclosures estimating the anticipated attorneys' fee, and an explanation of the relative recoveries that both the attorney and class action clients can expect to receive if the claim is settled or decided favorably. My cosponsorship of the Class Action Fairness Act and intention to introduce my own legislation is prompted by some high profile class action case settlements that have generated a great deal of controversy. Labeled ''coupon'' settlements, these agreements have involved the class action claimants receiving coupons for discounts on later purchases of goods or services while the attorneys representing the class walk away with literally hundreds of thousands of dollars, or even millions of dollars, in fees. Often these coupons are for discounts on the same item rejected by the claimants in the class action.

For instance, several years ago many of the nation's airlines were sued based upon a claim that they had fixed prices. A database that the airlines were using to communicate fares to the travel industry was suspected of being used to compare and fix fares, and a Justice Department antitrust investigation thus ensued. The Justice Department subsequently filed a civil antitrust suit in 1992 and settled the case in 1994. But firms specializing in class action cases also brought their own civil suits against the airlines on behalf of air travelers. In fact, 37 firms were involved on the plaintiff side of the litigation.

A settlement was eventually reached that provided $438 million worth of coupons to an unknown number of passengers, while the legal fees to plaintiffs' attorneys amounted to $16 million. In other words, the passengers got coupons, and the lawyers got cash. You may be thinking that $438 million in coupons sounds like a pretty generous amount of discounts for the passengers, but the details indicate otherwise. Each coupon was good for only a 10 percent maximum discount off an air fare. 4.2 million air travelers recovered between $73 and $140 in coupons, but, again, any one coupon was only good for 10 percent of the actual fare.

One particularly revealing fact about this settlement was that one airline that had not been named as a defendant actually asked to be joined in the suit as a defendant because they saw the promotional value of all these coupons going to air travelers. So what ostensibly was a high stakes civil action degenerated into a promotional tool for the airlines, a negligible recovery for the class members, and a financial boon for the plaintiffs' attorneys.

It's not difficult to foresee the possibility of collusion between plaintiffs' and defendants' attorneys when the plaintiff attorneys can get huge fees and defendants can eliminate the risk of a large judgment. It obviously is an attractive option to a defendant to settle a case and pay large fees to a small number of people—specifically the attorneys—and avoid the risk of protracted litigation and lawyers seeking a jackpot recovery. Attorneys have a fiduciary duty to represent the best interests of their clients, but it's clear that in the cases of coupon settlement usually the primary interest served is their own.

So we now have a problem of plaintiff attorneys searching for causes for which they can bring suit, and then representing anonymous clients that they don't know and to which they have no accountability. In fact, many members of a class in a class action don't even know they are being represented. The windfall profits to attorneys has prompted a deluge of these type of suits, and recent studies indicate that in the last 36 months, some companies have faced a 300 to 1000% increase in the number of class actions filed against them. And you know the problem has gotten bad when the president of the Association of Trial Lawyers of America comes out against coupon settlements.

The problem of coupon settlements has been manifested primarily in state courts. Federal court judges generally, to their credit, have been more vigilant in policing such ''sweetheart settlements.'' The problem of the proliferation of this type of litigation in state courts prompted Congress to seek a legislative remedy. The Judiciary recently marked up the Class Action Fairness Act, which moves many of these large, multi-state claims to the federal courts where they belong. Many of the class action trial lawyers have worked the system to keep their claims in state court, where they know there is not the expertise nor staff to handle the issues, and which provides them advantages over the defendant. The bill also requires the Judicial Conference of the United States to recommend best practices the courts can use to ensure settlements are fair to the class members, that attorneys fees are appropriate, and that the class members are the primary beneficiaries of the settlement.

I believe that these are important reforms, and I want to take the reforms a step further by requiring attorneys in class action cases to make an up-front disclosure about the prospects for success and also give information about attorneys' fees and individual class member recovery in the event of a successful conclusion to the suit. If potential class members are likely to receive only a small fraction of what their attorney would receive, or perhaps a coupon which they may or may not end up using, then they need to be appraised of that fact from the start. These types of disclosures will at least put the potential class members on notice that perhaps the attorneys don't have some noble pursuit of justice in mind as much as they do getting a quick settlement that will net them huge profits, while the clients they ostensibly are trying to assist receive little or nothing.

Again, I am pleased to join as a cosponsor of S. 343, and look forward to introducing my own legislation to combat this abuse of our legal system.

## EXPLANATION OF ABSENCE

Mrs. MURRAY. Mr. President, as my colleagues know, I had to return home to Washington state on Thursday of last week to attend the funeral of Mr. Bernie Whitebear. Unfortunately, I missed a series of roll call votes on H.R. 4461, the fiscal year 2001 agriculture appropriations bill, and the vote on the Conference Report of H.R. 4810, marriage tax penalty legislation. I wanted to take this opportunity to state for the Record how I would have voted had I been present.

On Roll Call Vote Number 221, the Harkin Amendment Number 3938, I would have voted ''Yea.''

On Roll Call Vote Number 222, the Wellstone Amendment Number 3919, I would have voted ''Yea.''

On Roll Call Vote Number 223, the Specter Amendment Number 3958, I would have voted ''Yea.''

On Roll Call Vote Number 224, on the question of whether the Durbin Amendment Number 3980 is germane to H.R. 4461, I would have voted ''Yea.''

On Roll Call Vote Number 225, on final passage of H.R. 4461, I would have voted ''Yea.''

On Roll Call Vote Number 226, on final passage of the Conference Report of H.R. 4810, I would have voted ''Nay.''

## WHY FOREIGN AID?

Mr. LEAHY. Mr. President, I often hear from members of the public who feel that the United States is spending too much on ''foreign aid.'' Why are we sending so much money abroad, they ask, when we have so many problems here at home?

This concerns me a great deal, because it has been shown over and over again that most Americans mistakenly believe that 15 percent of our national budget goes to foreign aid. In fact it is about 1 percent. The other 99 percent goes for our national defense and to fund other domestic programs—to build roads, support farmers, protect the environment, build schools and hospitals, pay for law enforcement, and countless other things the governments does.