death penalty system. I have introduced the National Death Penalty Moratorium Act, which would place a moratorium on Federal executions and call on the States to do the same, while an independent, blue ribbon commission conducts a thorough study of the flaws in the system.

As public concern about the accuracy and fairness of the use of the death penalty deepens, I commend Governor Blagojevich for taking this opportunity to continue Illinois' commitment to justice and fairness.

Governor Blagojevich did the right thing last week when he decided to continue the death penalty moratorium in Illinois. We in the Senate have a unique opportunity to look to the State of Illinois as a model for the Nation in ensuring fairness in the Federal death penalty system. I urge my colleagues to co-sponsor the National Death Penalty Moratorium Act.

The time for a moratorium is now.

INTERPRETATION OF TITLE IX OF THE SARBANES-OXLEY ACT OF 2002, H.R. 3763

Mr. BIDEN. Mr. President, on April 11, 2003, I submitted for inclusion in the official RECORD of the Senate a section-by-section discussion and analysis of title IX of the Sarbanes-Oxley Act of 2002, P.L. 107–204. At the end of that statement, the full text of a letter to me from the United States Department of Justice, dated December 26, 2002, should have appeared. In that letter, Assistant Attorney General Daniel J. Bryant confirms my view that the Department may use existing criminal provisions to prosecute corporate executives who fail to file a certification attesting to the accuracy of a company's financial reports, pursuant to Section 906 of the Sarbanes-Oxley Act. Unfortunately, the letter was inadvertently excluded from the RECORD, so I now resubmit it and ask unanimous consent that its text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, December 26, 2002.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: This is in response to your letter of October 16, 2002 to the Attorney General and the Chairman of the Securities and Exchange Commission regarding enforcement of section 906 of the Sarbanes-Oxley Act of 2002 (''the Act''). The Department thanks you for your leadership in corporate governance reform and, in particular, commends your efforts as primary author of section 906 of the Act (18 U.S.C. §1350), which requires corporate executives to make certain certifications with respect to their financial statements.

The Department is fully committed to using the tools Congress provided in the Act in our continuing efforts to uncover and punish corporate fraud. As the President noted when he signed the Act, ''this law gives my administration new tools for enforcement. We will use them to the fullest.'' In keeping with the President's statement, Attorney General Ashcroft has directed all United States Attorneys and FBI Special-Agents-in-Charge to review the Act and to take all appropriate steps to implement its provisions fully and expeditiously.

The Department continues to consult with the Commission staff regarding certain legal and technical issues associated with implementing section 906. In particular, questions have arisen regarding the form, location, method of filing and scope of the certification required under section 906. We want to assure you that the Department will continue to work closely with the Commission and we are confident that these questions will be resolved to your satisfaction and with the full input of all affected parties in the near future.

The Department does believe that it is in a position to respond to one question you raised in your letter. You have inquired whether covered individuals who willfully fail to file the certifications required by 18 U.S.C. §1350(a) are subject to the penalties provided in 15 U.S.C. §78ff. While the facts and circumstances determine which tools our prosecutors utilize in each individual case, we believe that section 78ff's criminal penalties are applicable when an individual willfully fails to file the required certification under section 906.

Section 1350(a) of the Act mandates that each periodic report containing financial statements filed by an issuer with the Securities and Exchange Commission pursuant to Sections 13(a) or 15(d) of the Securities Exchange Act of 1934 shall be accompanied by the required written certification. In addition, Section 3(d) of the Act states that: ''a violation by any person of this Act, any rule or regulation of the Commission issued under this Act, or any rule of the Board shall be treated for all purposes in the same manner as a violation of the Securities Exchangee Act of 1934 (15 U.S.C. §§78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this Act, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules and regulations.''

The criminal provisions of the Securities Exchange Act of 1934 (15 U.S.C. §78ff) state that ''any person who willfully violates any provision of this chapter (other than section 78dd–1), or any rule or regulation thereunder the violation of which is made unlawful or the observance of which is required under the terms of this chapter . . . shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.'' Therefore, as you have suggested, the Department may utilize section 78ff's criminal penalties to prosecute executives who violate the Sarbanes-Oxley Act by willfully failing to file section 906's required certifications.

The Department believes that it is critically important to work with the Commission to resolve the remaining issues you have raised in a timely and thoughtful manner, and we are committed to moving forward expeditiously to achieve consensus on those issues. We also will continue, where appropriate, to formulate guidance for our prosecutors and investigators who must enforce the new law and to provide clarity for the corporate community which must comply with it.

We appreciate your attention to these issues, and look forward to continuing to work with you and others in Congress on the implementation of the Sarbanes-Oxley Act.

Sincerely,

DANIEL J. BRYANT,
Assistant Attorney General.

HONORING OUR ARMED FORCES

Mr. LIEBERMAN. Mr. President, I rise to pay tribute to the second fallen son of Connecticut in the war against Saddam Hussein's regime in Iraq: Marine CPL Kemaphoom ''Ahn'' Chanawongse, 1st Battalion, 2nd Marine Regiment, 2nd Marine Expeditionary Brigade, United States Marine Corps, who was killed in an ambush outside of Nasiriyah, Iraq, on March 23rd, 2003. This brave young man was just 22 when he lost his life.

Corporal Chanawongse had been listed as missing in action for 3 weeks: three weeks of what I can only imagine was, for his family, a time of unimaginable uncertainty and trepidation. We can only hope that the news of their son's death has given the Corporal's family some sense of closure, and an opportunity to come to terms with his passing with God's help and the help of their friends.

Corporal Chanawongse was not the first to fall for his country in Iraq, and sadly, it is safe to say that his death will not be the last. Nonetheless it is important for us to honor each of the fallen in their own right: to say, ''these few gave their lives so that many could live without fear.'' There is no greater measure of compassion than the sacrifice that Corporal Chanawongse and his fallen brothers- and sisters-in-arms made. In the stories of the fallen soldiers we will learn more about the stuff that this country is made of and the values on which it is built. It is our duty as Americans, and as citizens of the world who believe in freedom, to always remember their names, their faces, and their stories.

This young man and his family came to the United States when he was 8 years old, and they settled in the wonderful town of Waterford, CT. Ahn graduated from Waterford High School in 1999 and joined the Marines shortly thereafter. It is a story similar to the stories of countless other young men and women who choose to serve their country for the chance to be a part of something greater than themselves; for a chance to build a noble life for themselves and the children they might someday have; for a chance to join a select brotherhood and sisterhood that has, throughout history, responded to our country's call and the call of others in danger and distress around the world.

I extend my deepest condolences to Corporal Chanawongse's mother, Tan Patchem, his stepfather, Paul Patchem, and his older brother, Awe. I tell you plainly that I am humbled by your family's sacrifice, and I am honored to pay tribute to your son in this Chamber today.

Paul, Tan, and Awe, our prayers are with you in this difficult time.

TRIBUTE TO THE LATE SENATOR SPARK MATSUNAGA

Mr. INOUYE. Mr. President, 13 years ago this month, our late colleague, the Honorable Spark Matsunaga of Hawaii, died while serving in office, abruptly cutting short a distinguished 28-year