The "Firefighter Investment and Response Enhancement (FIRE) Act of 1999" would authorize the newly-named Federal Fire and Emergency Management Agency to make available matching grants on a competitive basis to fire departments for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards. This bill is a companion to H.R. 11638, which was introduced by my colleague in the House of Representatives, Congressman Pascrell.

Mr. President, each year approximately 100 of our nation's firefighters pay the ultimate sacrifice to preserve the safety of our communities. Increased demands on firefighting personnel have made it difficult for local governments to prepare for necessary fire safety precautions. The fire loss in the United States is serious, and the fire death rate is one of the highest per capita in the industrialized world. Fire kills more than 4,000 people and injures more than 25,000 people each year. Today, 11 people will die due to fire. Two of these people are likely to be children under the age of 5. Another 68 people will suffer injuries due to fire. Financially, the impact of America's estimated 2.2 million fires annually is over 9 billion in direct property losses.

The bill I introduce today would make grants available to train firefighter personnel in firefighting, emergency response, arson prevention and detection, and the handling of hazardous substances or pollutants or contaminants associated with the illegal manufacture of amphetamine or methamphetamine. This bill also creates partnerships by allowing for the effective use of the capabilities of the National Institute of Standards and Technology, the Department of Commerce, and the Consumer Product Safety Commission for research and development aimed at advancing the health and safety of firefighters; information technologies for fire management; technologies for fire prevention and protection; firefighting technologies; and burn care and rehabilitation. In addition, this legislation would ensure that grants would be made to a wide variety of fire departments, including applicants from paid, volunteer, and combination fire departments, large and small, which are situated in urban, suburban and rural communities.

Mr. President, despite the risks, 1.2 million men and women firefighters willingly put their lives on the line responding to fires, injuries and other disasters. Our greatest challenge is to put limited resources to work where they will make the most difference in saving lives and reducing losses.

I am pleased that the bill I introduce today has been endorsed by the Colorado State Fire Chief's Association. I urge my colleagues to join me in supporting this important bill. I ask unanimous consent that the bill be printed in the RECORD.

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

SEC. 2. FINDINGS.

Congress finds that—

(1) increased demands on firefighting personnel have made it difficult for local governments to adequately fund necessary fire safety precautions;

(2) the Federal Government has an obligation to protect the health and safety of the firefighting personnel of the United States and to help ensure that the personnel have the financial resources to protect the public;

(3) the United States has serious fire losses, including a fire death rate that is one of the highest per capita in the industrialized world;

(4) in the United States, fire kills more than 4,000 people and injures more than 25,000 people each year;

(5) in any single day in the United States, on the average—

(A) 11 people will die because of fire;

(B) 2 of those people will likely be children under the age of 5;

(C) 68 people will be injured because of fire; and

(D) over $9,000,000,000 in property losses will occur from fire; and

(6) those statistics demonstrate a critical need for Federal investment in support of firefighting personnel.

SEC. 3. REDESIGNATION OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The Federal Emergency Management Agency is redesignated as the "Federal Fire and Emergency Management Agency".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Emergency Management Agency shall be deemed to be a reference to the Federal Fire and Emergency Management Agency.

SEC. 4. FIREFIGHTER INVESTMENT AND RESPONSE ENHANCEMENT.

The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203 et seq.) is amended by adding at the end the following:

"SEC. 33. FIREFIGHTER INVESTMENT AND RESPONSE ENHANCEMENT.

(1) AUTHORITY.—In accordance with this section, the Director may make grants on a competitive basis to fire departments for the purpose of protecting the health and safety of the public and firefighting personnel against fire and fire-related hazards.

(a) DEFINITION OF FIREFIGHTING PERSONNEL.—In this section, the term "firefighting personnel" means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

(b) GRANT PROGRAM.—

(1) AUTHORITY.—In accordance with this section, the Director may make grants on a competitive basis to fire departments for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards.

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

S. Con. Res. 72. A concurrent resolution expressing the sense of the Congress regarding Freedom Day; to the Committee on the Judiciary.

S. Con. Res. 73. A concurrent resolution expressing the sense of the Senate regarding the conduct of the United States in Cuba by United States citizens and lawful resident aliens of the United States; to the Committee on Foreign Relations.

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Congressional Record — Senate
November 10, 1999

Mr. LAUTENBERG. Mr. President, the money we don’t spend on high-speed rail today we will have to spend tomorrow—on things we can’t afford. If we don’t spend on high-speed rail today we will spend on high-speed rail tomorrow. This investment in high-speed rail is an investment in less crowded highways and airports, cleaner air, and a new level of productivity for millions of Americans whose jobs and livelihoods depend on efficient transportation.

Mr. President, I’m willing to bet that every Member of this Senate has at one recent event or another experienced a plane flight that went horribly wrong. Missed connections. Hours spent inside an overheated plane stuck on the tarmac. Lost baggage. I know I’ve had plenty of experiences like that.

And even when everything goes according to plan, air travel is uncomfortable at best. You almost have to know yoga just to cram yourself into one of those tiny seats.

Commuting by car isn’t any better. Parts of Interstate 95 regularly turn into parking lots during week-day rush hours. And all this congestion can lead to truly life-threatening situations. Traffic accidents at the highest levels. Explosions of road rage that actually lead people to pull guns on each other on the highway.

Land and financial resources are scarce and we need to make better use of what we already have. Our rail lines are there, ready to help solve the overcrowding problems that are making our other transportation options less and less appealing. But for the most part, U.S. transportation policy has ignored the potential of high-speed rail and our rail system has fallen far below the standards set by other developed nations on the planet.

My legislation seeks to change that by authorizing Amtrak to sell $10 billion in high-speed rail bonds over ten years to develop high-speed corridors across the nation. This leveraging of private sector investment will allow the Federal Government to focus the Corridor high-speed project and provide the funding needed to bring faster, better service to federally designated high-speed corridors in other regions.

These corridors cover states in the Northeast, the Southeast, the Midwest, the Gulf Coast, and the Pacific Coast. Our aim is to take what we’ve learned in the Northeast and provide it to the rest of the nation.

The Federal Government would subsidize these bonds by providing tax credits to bondholders in lieu of interest payments. And state matching funds would help secure repayment of the bond principal.

Mr. President, the money we don’t spend on high-speed rail today we will have to spend tomorrow—on things like highway construction and pollution controls.

Investing in high speed rail is not only good transportation policy, it is good land use policy. Constructing an airport or highway outside of city limits promotes sprawl, robs cities of valuable revenue, and increases the pressure for even more road construction.
Rail travel, on the other hand, is down-town-to-downtown, not suburb-to-suburb. Rail transportation encourages efficient, “smart growth” land use patterns, preserves downtown economies, protects open space, and improves air quality.

Furthermore, passenger rail stations serve as focal points for commercial development, promoting downtown redevelopment and generating increased retail business and tax revenue. Making efficient and cost-effective use of existing infrastructures is an increasingly important goal and one which this legislation will help achieve.

Mr. President, high-speed rail is already proving itself. In 1999, Amtrak’s Metroliner train between Washington and New York set its third consecutive ridership record with over two million passengers, and Amtrak reported the highest total revenues in the corporation’s 28-year history. The reason is simple—people are becoming less and less satisfied with the traveling business. And more and more frustrated with gridlock on our highways.

You can see why. The summer of 1999 was the most delay-plagued season in history for airlines. And these delays are expected to continue. In 1998, air traffic control delays cost the airlines and passengers a combined $4.5 billion.

Unfortunately, this problem is only going to get worse. The number of people flying is increasing significantly. In 1998 there were 643 million domestic boardings in the U.S., up 25 percent from just five years ago. The Federal Aviation Administration estimates that boardings will increase to 917 million by 2008. Our current aviation system simply can’t handle this demand. We need a quality passenger rail system to relieve some of this pressure.

Passenger rail can make a difference, particularly between cities located on high-speed corridors. I went back and looked at the list of the 31 airports expected to experience more than 20,000 passenger hours of flight delays in 2007. The vast majority of these airports—more than three out of four—are located on a high-speed rail corridor. If the funding envisioned in this legislation were made available to develop these corridors, we could take much of the burden of short flights off our aviation system. That would allow airlines to concentrate their limited slots and resources on the distance flights—those that matter.

Traffic congestion costs commuters even more—an estimated $74 billion a year in lost productivity and wasted fuel. These commuters, even the ones who continue to drive, will be well served by an investment in high-speed rail corridors. Amtrak takes 18,000 cars a day off the roads between Philadelphia and New York. Without Amtrak, these congested roads would be in far worse shape. Commuters in other parts of the country must be able to look forward to high-speed, high-quality, fast rail service that takes cars off the road and helps to improve the performance of our overall transportation system.

This bill does not just benefit those who ride trains. Everyone who drives a car on congested highways or suffers from delays while using our overburdened aviation system will benefit from the rail investment called for in this legislation. I can tell you, as a former businessman who helped run a very profitable company, that high-speed rail is a smart investment. And it’s an investment that deserves support from Congress.

By Mr. KOHL (for himself and Mr. TORRICELLI):

S. 901. A bill to establish the Privacy Protection Study Commission to evaluate the efficacy of the Freedom of Information Act and the Electronic Freedom of Information Act Amendments of 1996, to determine whether new laws are necessary, and to provide advice and recommendations; to the Committee on the Judiciary.

The Privacy Protection Study Commission Act of 1999

Mr. KOHL. Mr. President, I rise today to introduce the Privacy Protection Study Commission Act of 1999 with my colleague Senator TORRICELLI. This legislation addresses privacy protection issues that are increasingly important. The Commission charged with the duty to explore privacy concerns. We cannot underestimate the importance of this issue. Privacy matters, and it will continue to matter more and more in this information age. Internet activity, data, Internet transactions, and lightning-quick technological advances.

There exists a massive wealth of information in today’s world, which is increasingly stored electronically. In fact, experts estimate that the average American is “profiled” in up to 150 commercial electronic databases. That means that there is a great deal of data—some cases, very detailed and personal—out there and easily accessible courtesy of the Internet revolution. With the click of a button it is possible to examine all sorts of personal information, be it an address, a criminal record, a credit history, a shopping performance, or even a medical file.

Generally, the uses of this data are benign, even beneficial. Occasionally, however, personal information is obtained surreptitiously, and even peddled to third parties for profit or other purposes. And, in many cases, people do not even know that their own personal information is being “shopped.”

Two schools of thought exist on how we should address these privacy concerns. There are those who insist that we must do something and do it quickly. Others urge us to rely entirely on “self-regulation”—according to them most companies will act reasonably and, if not, consumers will demand privacy protection as a condition for their continued business.

Both approaches have some merit, but also some problems. For example, even though horror stories abound about violations of privacy, Congress should not act by anecdote or on the basis of a few bad actors. Indeed, enacting “knee-jerk,” “quick-fix” legislation could very well do more harm than good. By the same token, however, self-regulation alone is likely to be the silver bullet that solves all privacy concerns. By itself, we have no assurance that it will bring the actors in line with adequate privacy protection standards.

Perhaps it is better to do it right—in terms of addressing the myriad of complicated privacy concerns—than to do it fast, perhaps what is needed is a cooling off period. Such a “breather” will ensure that our action is based on a comprehensive understanding of the issues, rather than a “mishmash” of political pressures and clever soundbites.

For those reasons, and recognizing that there are no quick and easy answers, I suggest that we step back from the issue of privacy more thoughtfully. Let’s admit that neither laws nor self-regulation alone may be the solution. Let’s also concede that no one is going to divine the right approach overnight. But given the time and process, the issue of “Privacy Protection Study Commission” composed of experts drawn from the fields of law, civil rights and liberties, privacy matters, business, or information technology, may offer insights on how to address growing balance of privacy protection.

The bill I am introducing today would do just that. The Commission would be comprised of nine bright minds equally chosen by the Senate, the House, and the Administration. As drafted, the Commission will be granted the latitude to explore and fully examine the current complexities of privacy protection. After 18 months, the Commission will be required to report to the Congress with findings and proposals. If legislation is necessary, the Commission will be in the best position to recommend a balanced course of action. If any legislation is not warranted, the Commission’s recognition of that fact would help persuade a skeptical Congress and public.

This is not a brand new idea. Twenty-five years ago, Congress created a Privacy Protection Commission to study privacy concerns as they related to government use of personal information. That Commission’s findings were seminal. A quarter of a century later, because so much has changed, it is time to re-examine this issue on a much broader scale. The uses of personal information that concerned the Commission 25 years ago have exploded today, especially in this era of e-commerce, super databases, and mergers. People are genuinely worried—perhaps they shouldn’t be—but their concerns are real.

For example, a Wall Street Journal survey revealed that Americans today are more concerned about invasions of their personal privacy than they are...
about world war. Another poll cited in the Economist noted that 80 percent are worried about what happens to information collected about them. William Ayres summed it up best in a recent New York Times essay: "We are dealing with a political and social issue. People are getting wise to the idea that their lives are secretly examined and manipulated and it rubs them the wrong way."

One final note: given that privacy is not an easy issue and that it appears in so many other contexts, I invite all interested to help us in our legislation to create a Commission. We need to forge a middle ground consensus with our approach, and the door is open to all who share this goal.

Mr. President, I ask unanimous consent to incorporate the previously cited material be printed in the Record.

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

[From the Economist—May 1, 1999]

THE END OF PRIVACY

Remember, they are always watching you. Use caution with your phone number, social-security number or address, unless you absolutely have to. Do not fill in questionnaires or respond to tele-marketing campaigns. The growing number of tollbooths on roads. Never leave your mobile phone on—your movements can be traced. Do not use store credit or discount cards. If you must use the Internet, encrypt your e-mail. Do not use the same password.

This sounds like a paranoid ravings of the Unabomber. In fact, it is advice being offered by the more zealous of today’s privacy campaigners. In an increasingly wired world, people are continually creating information about themselves that is recorded and often sold or pooled with information from other sources. Privacy advocates say the information they gather is unnecessary.

Anyone who took these precautions would merely be seeking a level of privacy available to all 20 years ago. And yet such behaviour now would seem obsessive and paranoid indeed.

That is a clue to how fast things have changed. To try to rein in the privacy that was universal in the 1970s is to catch a chimera. Computer technology is developing so rapidly that it is hard to predict how it will be used. But some trends are unmistakable. The volume of data recorded about people will continue to expand dramatically (see pages 21-23). Disputes about privacy will become more frequent. And attempts to restrain the surveillance society through new laws will intensify. Consumers will pay more for services that offer a privacy pledge. And the market for privacy-protection technology will grow.

Always observed

Yet there is a bold prediction: all these efforts to hold back the rising tide of electronic intrusion into privacy will fail. They may slow the process, but not stop it. Whatever the trouble or cost, to protect themselves. But 20 years hence most people will find that the privacy they take for granted today will be just as elusive as the privacy of the 1970s now seems. Some will shrug and say: "Who cares? I have nothing to hide." Others will be disturbed by the idea that most of their behaviour is being tracked and recorded. People will have to start assuming that what they do will constitute one of the greatest social changes of modern times.

Privacy is doomed for the same reason that it has not so far done so for the past two decades. Presented with the prospect of its loss, many might prefer to eschew even the huge benefits that the new information economy offers them. If it is not, in practice, be offered that choice. Instead, each benefit—safer streets, cheaper communications, more entertainment, better government services, more convenient shopping, a wider selection of products—will seem worth the surrender of a bit more personal information. Privacy is a residual value, hard to define or protect in the abstract. The cumulative effect of these bargains—each attractive on their own—will be the end of privacy.

For a similar reason, attempts to protect privacy through new laws will fail—as they have done in the past. The European Union’s data protection treaty, for example, was a recent attempt, gives individuals unprecedented control over information about themselves. This could provide remedies against the abuses of modern life. But it is doubtful whether the law can be applied in practice, if too many people try to use it. Already the Europeans are hinting that they will not enforce the strict terms of the directive against America, which has less stringent protections.

Policing the proliferating number of databases that are gathering your information would not only be costly in itself, it would also impose huge burdens on the economy. Moreover, such laws are based on a novel concept: that individuals have a property right in information about themselves. Broadly enforced, such a property right would be antithetical to an open society. It would pose a threat not only to commerce, but also to a free press and to much political activity, to say nothing of everyday conversation.

It is likely that laws will be used not to obstruct the recording and collection of information, but to catch those who use it to do harm. Fortunately, the same technology that makes it easier to trap stalkers, detect fraud, prosecute criminals and hold the government to account, The result could be less privacy, certainly—but also more security for the law-abiding.

Whatever new legal remedies emerge, opting out of information-gathering is bound to become an expensive proposition. If most urban streets are monitored by intelligent video cameras that can identify criminals, the RCMP are planning to install their entire medical history on a plastic card that the emergency services come to rely on, a fee to carry the card could be life-threatening. One way to combat hiring a car or booking a room at a top hotel without a credit card.

LEADERS

In a way, the future may be like the past, when few people cared about much privacy. To earlier generations, escaping the claustrophobic all-knowingness of a village for the relative anonymity of the city was worth the risks of everyday life. But the era of urban anonymity already looks like a mere historical interlude. There is, however, one difference between past and future. In the village, everybody knew everybody else's business. In the future, nobody will know for certain who knows what about them. That will be unfortunate. But the best advice may be get used to it.

THE SURVEILLANCE SOCIETY

New information technology offers huge benefits. With respect to crime prevention, improved medical care, dazzling entertainment, more convenience. But it comes at a price: less and less privacy. That, with time, will be intolerable. For yet another reason, made famous by the Unabomber, an American Supreme Court justice, captures the essence of a notoriously slippery, but crucial concept: the right in privacy. The right to personal privacy has always been tricky. Most people have long accepted the need to provide some information about themselves in order to vote, work, shop, pursue a business, socialise or even borrow a library book. But exercising control over who knows what about them, has also come to be seen as an essential feature of a civilised society.

Totalitarian excesses have made "Big Brother" one of the 20th century's most frightening bogeyman. Some right of privacy, however qualified, has been a major difference between democracies and dictatorships. An explicit right, if the right to be left alone, was enshrined in scores of national constitutions as well as in international human-rights treaties. Without the "right to be left alone," to speak freely on occasions of public interest and importunities of both government and society, other political and civil liberties seem fragile. Today most people in rich societies assume that, provided they obey the law, they have a right to enjoy privacy whenever it suits them. They are wrong. Despite a raft of laws, treaties and constitutional provisions, privacy has been eroded for decades. This trend is now likely to accelerate sharply. The campaign to protect the American Unabomber when he first popularized his phrase in an article in 1890. The result could be less privacy, certainly—but also more security for the law-abiding.

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bank debit card, most financial transactions, telephone calls, all dealings with national or local government. Supermarkets record every item being bought by customers who use debit cards. Mobile-phone companies are busy installing equipment that allows them to track the location of anyone who has a phone switched on. Electronic tollbooths are already installed to record the movement of individual vehicles. Pioneered in Britain, closed-circuit tv cameras now scan increasingly large swathes of urban and rural areas. Local government agencies are the largest consumers of trade in consumer information has hugely expanded in the past ten years. One single company, Acxiom Corporation in Conway, Arkansas, claims to have combined personal and consumer information that covers 95% of American households. Is there anyone left on the planet who does not know that their use of the Internet is being recorded by somebody, somewhere?

Firms are as interested in their employees as in their customers. A 1997 survey by the management association of 900 large companies found that nearly two-thirds admitted to some form of electronic surveillance of their own workers. Powerful new software is being provided to monitor and record not only all telephone conversations, but every keystroke and e-mail message as well.

Information, however, so its hardly surprising that governments are as keen as companies to use data-processing technology. They do this for many entirely legitimate reasons-tracking benefit claimants, delivering better health care, fighting crime, pursuing terrorists. But it inevitably means more government surveillance.

A controversial law passed in 1994 to aid law enforcement requires telecoms firms operating in America to install equipment that allows them to intercept and store all telephone conversations and data communications, although disputes between the firms and the FBI have delayed its implementation. Intelligence agencies from America, Britain, Canada, Australia and New Zealand jointly monitor all international satellite-telecommunications traffic via a system called “Echelon” that can pick specific words or phrases from hundreds of thousands of messages. America, Britain, Canada and Australia are also compiling national DNA databases of convicted criminals. Many other countries are considering following suit. The idea of DNA databases that cover entire populations is still highly controversial, but those databases are powerful tools for fighting crime and disease that pressure for their creation seems inevitable. Iceland’s parliament has agreed a plan to sell the DNA database of its population to a medical-research firm, a move bitterly opposed by some on privacy grounds.

To each a number

The general public may be only vaguely aware of the exponential growth of information-gathering, but when they are offered a glimpse, most people do not like what they see. A survey by America’s Federal Trade Commission found that nearly 90% of Americans are aware of the mushrooming growth of information-gathering, but when they are offered the choice of attaching a privacy policy to their products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law may give individuals a valuable tool to fight against some of the worst abuses, rather than the pattern of consumer-credit laws. But, as also with those laws—and indeed, with government freedom of information laws in general—individuals will have to be determined and persistent to exercise their rights. Corporate and government officials can often find ways to delay or evade individual rights. The increasing scale and complexity of data collection and trading is probably beyond the capability of any government without a crackdown so massive that it could compromise the efficiency of data collection and trading. But it could create a big loophole. If, on the other hand, the EU insist on barring data exports, not only might a trade war be started but also the development of electronic commerce in Europe could come to a complete halt, inflicting a huge cost on the EU’s economy.

In any case, it is far from clear what effect the new law will have. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law may give individuals a valuable tool to fight against some of the worst abuses, rather than the pattern of consumer-credit laws. But, as also with those laws—and indeed, with government freedom of information laws in general—individuals will have to be determined and persistent to exercise their rights. Corporate and government officials can often find ways to delay or evade individual rights. The increasing scale and complexity of data collection and trading is probably beyond the capability of any government without a crackdown so massive that it could compromise the efficiency of data collection and trading. But it could create a big loophole. If, on the other hand, the EU insist on barring data exports, not only might a trade war be started but also the development of electronic commerce in Europe could come to a complete halt, inflicting a huge cost on the EU’s economy.
Enter the infomediary

John Hagel and Marc Singer of McKinsey, a management consulting firm, believe that from such services will emerge “infomediaries,” firms that become brokers of information between consumers and companies, giving consumers privacy protection and also earning them some revenue for the information they are willing to release about themselves. But consumers were willing to pay for such brokerage, infomediaries might succeed on the Internet. Such firms would have the strongest possible stake in maintaining the reputation for privacy protection. But it is hard to imagine them thriving unless consumers are willing to funnel every transaction through a single intermediary. Even if this is possible— which is unclear—many consumers may not want to rely on a single firm. Most, for example, already have more than one credit card.

In the meantime, many companies already declare that they will not sell information they collect about customers. But many others find it possible profitable not to make a door locked with a bolt and a door leftajar. But in a divided appeals court—under the strained rubric of commercial free speech, the purpose seems outlandish.

But he argues that privacy is doomed in any one, not just the police.

ment to a borrower's employer, who fires the employee for profligacy.

Video cameras would record not only criminals, but also abusive policemen. Corporate chiefs would know that information about themselves is as freely available as it is about their employees. Crime and terrorism would then encourage restraint in information gathering—and maybe even more coverage.

Yet Mr. Brin does not explain what would happen to transparency violators or whether there would be any limits. What about national, political or trade secrets? Police and medical data might find these of great interest. What is more, transparency would be just as difficult to enforce legally as privacy protection is now. Indeed, the very idea of selling privacy into a crime outliers.

There is unlikely to be a single answer to the dilemma posed by the conflict between privacy and the growing power of information technology. But unless society collectively turns away from the benefits that technology can offer—surely the most unlikely outcome of all—privacy debates are likely to become very much more intense. In the brave new world of the information age, the right to be left alone is certain to come under siege as never before.

NOBY PARKER LIVES

William Safire, Washington

A state sells its driver's license records to a stalker; he sells a Hollywood starlet—from the photos and murders her.

A telephone company sells a list of calls; an extortionist analyzes the pattern of calls and blackmails the victim of the phone.

An Internet browser sells the records of a nettie's searches to a lawyer's private investigator, who uses “cookie”-generated evidence against the naitteen in a lawsuit.

Such invasions of privacy are no longer far-out possibilities. The first listed above, the murder of Rebecca Schaeffer, led to the Driver's Privacy Protection Act. That Federal law enables motorists to “opt out”—to deny that information about them not be sold for commercial purposes.

But even that opt out puts the burden of protection on the individual consumers. And most people are too busy or lazy to initiate self-protection. Far more effective would be what privacy advocates call opt in—requiring the state or business to request permission of an individual customer before selling their names to practitioners of “target marketing.”

In practical terms, the difference between opt in and opt out is clear. Under opt in, between a door locked with a bolt and a door left open, one can only ever be a partial answer. Privacy will be reduced not only by government or private snooping, but by the constant recording of all sorts of information that individuals must provide to receive products or benefits—which is as true on as off the Internet.

Transparency. Despairing of efforts to protect privacy in the face of the approaching technological deluge, David Brin, an American physicist and science-fiction writer, proposes a radical alternative—its complete abolition. "The Transparent Society" (Addison-Wesley, $25) he argues that in future the rich and powerful—and most ominously of all, governments—will derive the greatest benefit from privacy protection, rather than ordinary people. Instead, says Mr. Brin, a clear, simple rule should be adopted: everyone should have access to all information about himself. Such a system would be accessible to everyone, not just the police.

The idea sounds disconcerting, he admits. But he argues that privacy is doomed in any case. In a world where information could enable people to know who knows what about them, and for the ruled to keep any eye on their rulers. Video cameras would record not only criminals, but also abusive policemen. Corporate chiefs would know that information about themselves is as freely available as it is about their employees. Crime and terrorism would then encourage restraint in information gathering—and maybe even more coverage.

Yet Mr. Brin does not explain what would happen to transparency violators or whether there would be any limits. What about national, political or trade secrets? Police and medical data might find these of great interest. What is more, transparency would be just as difficult to enforce legally as privacy protection is now. Indeed, the very idea of selling privacy into a crime outliers.

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PRIVATELY HELD CONCERNS


Congress has been paddling 20 years to get a financial-service overhaul bill, and now the canoe threatens to run aground on one of the canoe's other sticking points: consumer privacy. Congress is attempting to craft a bill that would establish a good in press release—“consumer privacy.” In the column alongside, Paul Gigot describes the hardball politics behind the financial reform bill's other sticking point—the Community Reinvestment Act. Our subject here is Senator Richard Shelby's strange idea of what, precisely, should constitute “consumer privacy” in the new world. “It's our responsibility to identify what is out of bounds,” declared the identity confused Republican as he surfaced this phantom last spring.

Privacy concerns are a proper discussion point for the information age, but financial reform would actually end up alleviating some concerns. The financial services industry is one of the few sectors left that still offer a single combined insurance policy—what Mr. Jones gives his permission in writing first. Mr. Shelby threatens to withhold his crucial

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unless this deal-breaker is written into the law.

To inflict this inconvenience on Mr. Jones is weird enough: He has already volunteered to have his hardware with Citigroup. But even weirder is the urge to cripple a law whose whole purpose is to modernize an industry that forces consumers today to chase six different companies around to get a full mix of financial services. In essence, financial products all do the same thing these days: time. You would have to go to college now based on your future earnings, so you take out a loan. You want to re-tire in 20 years based on your present earnings, so you go to college. And if it all goes up from modern man, it’s “Simplify my life.”

A vote last Friday seemed, to put Mr. Shelby’s peevish to rest. Under the current language, consumers would have an “opt out” if they don’t want their data shared. But Mr. Shelby won’t let go, and joining his chorus are Ralph Nader on the left, Phyllis Schlafly on the right and various gnat buzzing around the interest-group honeypot.

He claims to be responding to constituent complaints about telemarketing, not to mention a poll showing that 90% of consumers respond favorably to the word “privacy.” He claims that after the Citizen’s Privacy bill is passed, everyone will realize that their information made available indiscriminately to strangers.

But putting up barriers to free exchange inside a company that a customer already has chosen to do business with is a farfetched application of a sensible idea.

Mr. Shelby was a key supporter of language that would push banks to set up their insurance and securities operations as affiliates under a holding company. Now he wants to stop these affiliates from talking to each other so that he can have what he calls “privacy.” It sounds more like a favor to Alabama bankers and insurance agents who want to make life a lot harder for their New York competitors trying to open up local markets.

GROWING COMPATIBILITY ISSUE: COMPUTERS IN THE ELECTRONIC AGE


San Francisco, March 2—The Intel Corporation recently blinked in a confrontation with America Online, a company that is pushing the Silicon Valley giant to abandon its Bytemark (pictures of devices connected to computer networks). Mr. Smith inves-

But those on each side of the dispute acknowledge that it was only an initial skirmish in a wider struggle. From computers to cell phones to digital video players, everyday devices and software programs increasingly embed telltale identifying numbers that can easily be found in word processing and spreadsheet files created with software programs.

Moreover, unlike the Intel serial number, which uniquely identifies a computer to the network, each Microsoft Word or Excel document has a unique identifier. If we didn’t find that identifying numbers can easily be found in word processing and spreadsheet files created with software programs.

According to the report, the number used to each device is a unique identifier. The number is used to identify the computer to the local network. The number is used to identify the computer to the local network.

Moreover, they note that identifying numbers can easily be found in word processing and spreadsheet files created with software programs.

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identity capability as the Intel processor serial number. Other examples include DIVX DVD disks, which come with a serial number that permits tracking the use of each movie by a centralized network-recording system managed by the companies that sell the disks.

Privacy isn't dead yet. [By John Schwartz—March 29, 1999]

Jim Hightower, the former agriculture commissioner of Texas, is fond of saying that "there's nothing in the middle of the road but yellow stripes and dead armadillos." It's punchy, and has become a rallying cry of sorts for activists on all sides. But is it true? "Impeccably harbingers of a trend toward ever more invasive surveillance networks, these devices will require some kind of identification to attach to the network. Privacy advocates argue that even if isolated numbers look harmless, they are actually harbinger of a trend toward ever more invasive surveillance networks.

"Whatever we can do to actually minimize the collection of personal data is good," said march Rotenberg, director of the Electronic Privacy Information Center, one of three groups trying to organize a boycott of Intel's chips.

The groups are concerned that the Government will require ever more invasive hardware modifications to keep track of individuals. Already they point to the 1994 Communications Assistance for Law Enforcement Act, which requires that telephone companies modify their network switches to make it easier for Government wiretappers.

Also, the Federal Communications Commission is developing regulations that will require every cellular telephone to be able to report its precise location for "911" emergency calls. Privacy groups are worried that this feature will be used as a tracking technology by law enforcement officials.

"The ultimate danger is that the Government will mandate that each chip have special logic added" to track identifies in cyberspace, said Vernor Vinge, a computer scientist at San Diego State University. "We're on a slide in that direction."

Mr. Vinge is the author of "True Names" (Tor Books, 1984), a widely cited science fiction novel in the early 1980's, that forecast a world where anonymity in computer networks is illegal.

Intel executives insist that their chip is being sold to privacy groups. "We're going to start building security architecture into our chips, and this is the first step," said Pat Gelsinger, Intel vice president and manager of the chipset products. "The discouraging part of this is our objective is to accomplish privacy."

That quandary—that it is almost impossible to compartmentalize information for one purpose so that it cannot be misused—lies at the heart of the argument. Moreover providing security while at the same time offering the growing online business long been a technical and a political challenge.

"We need to find ways to distinguish between security and identity," said James X. Dempsey, a privacy expert at the Center for Democracy and Technology, a Washington lobbying organization.

So far the prospects are not encouraging. One innovative idea developed is a digital identity card, designed by a cryptographer, David Chaum, made it possible for individuals to make electronic cash payments anonymously in a network. In the card, each cardholder employs a different number with each organization, thereby insuring that there is no universal tracking capability.

But Chaum's solution has been widely considered ingenious, it has failed in the marketplace. Last year, his company, Digicash Inc. based in Palo Alto, Calif., filed for bankruptcy protection.

"Privacy never seems to sell," said Bruce Schneier, a cryptographer and a computer security analyst. "Those who are interested in privacy don't want to pay for it."

PRIVACY ISN'T DEAD YET [By John Schwartz—March 29, 1999]

It seems self-evident that information about your shoe size does not need to be as well guarded as information about tests ordered by your doctor. But with the federal and state laws turning personal information into vast databases in the private sector, personal medical information. And Congress is grappling with laws to prevent the use information about our mutual-fund holdings from being sold and bought.

But with superpowerful computers and vast databases in the private sector, personal information can't be segmented in this manner. What starts off as harmless can turn into a gold mine.

"Some health insurers try to "cherry pick" their clients, seeking to cover only those who are least likely to have genetic problems or cancer like AID or AIDS," said a Chicago attorney.

Some laws prohibit insurers from asking people directly about their sexual orientation. Massachusetts, for example, wants to "in" sure those whose vocation (designer?), place of residence (Greenwich Village?) and marital status (single at 40-plus?) suggest that they might be gay.

Especially comprehensive privacy invaders are "cookies"—surveillance files that many marketers implant in the personal computer to allow the marketers to track users' preferences and transactions. Cookies, we are assured, merely inform marketers about our wishes and habits. They are "clicks"—data that marketers can use to sell us more products.

Generally, they are "cookies"—surveillance files that many marketers implant in the personal computer to allow the marketers to track users' preferences and transactions. Cookies, we are assured, merely inform marketers about our wishes and habits. They are "clicks"—data that marketers can use to sell us more products.

A middle ground in the privacy war? [By John Schwartz—March 29, 1999]

Amitai Etzioni, a professor at George Washington University, thinks not. He thinks he has found a workable middle ground between the combatants in one of the most significant fights in our high-tech society: the right of privacy.

Etzioni has carved out a place for himself over the decades as a leader in the "communitarian" movement. Communitarianism works toward a civil society that transcends both government regulation and commercial intrusion—a society where the "gold makes the rules" does not apply.

"But what does all that have to do with privacy? Etzioni has written a new book, "The Limits of Privacy," that applies communitarian principles to this thorny issue.

For the most part, the debate over privacy is carried out from two sides separated by a huge ideological gap—a gap so vast that they seem to feel a need to shout just to get their words in. But Etzioni is unusual with a theme not often heard, that middle of the road that Hightower hates so much.

Etzioni's book does not do away with new privacy doctrine that protects the individual from snooping corporations and irresponsible government, but cedes individual privacy fights when public health and safety are at stake—a "balance between rights and the common good," he writes.

In the book, Etzioni tours a number of major privacy issues, passing judgment as he goes along. Pro-privacy decisions that prohibited mandatory testing infants for HIV, for example, take the concept too far and put children at risk, he says, while the other side campaigns against the government's attempts to wiretap and unscramble encrypted messages, they are, he says, misguided in the face of the evil that walks the planet.

The prospect of some kind of national ID system, which many privacy advocates view as anathema, he finds useful for catching criminals, reducing the crime of identity theft. The broad distribution of our medical records for commercial gain, however, takes too much away from us for Etzioni's liking.

I called Etzioni to ask about his book. He said civil libertarians talk about the threat of government intrusion into our lives, and I talk about the threat of criminals, but that the more he got into his research, the more it seemed that the two
side were missing "the number one enemy—it's a small group of corporations that have more information about us than the East German police ever had about the Germans."

He's not so confident, for example, by recent news that both Microsoft Corp. and Intel Corp. have included identifier codes in their products that could be used to track people's online habits: "They not only track what we are doing," he says. "They track what we think.

His rethinking of privacy leads him to reject the notions that led to a constitutional right of privacy, best expressed in the landmark 1965 case Griswold v. Connecticut. In the late 1950s, Willard C. Douglass found a right of privacy in the "penumbra," or shadow border, of rights granted by other constitutional amendments—such as freedom of speech, freedom from unreasonable search and seizure, freedom from having troops billeted in our homes.

Etzioni sees at this "the stretched interpretation of a curious amalgam of sundry pieces of various constitutional rights," and says we need only look to the simpler balancing act we would have in Fourth Amendment cases governing search and seizure, which give us privacy protection by requiring proper warrants before government can tape a phone or search a home.

"We cannot say that we will not allow the FBI under any conditions, because of a cyber attack, to have access to all our personal information," he says. "But we have to see, in the acknowledgement in his book, warm thanks to Marc Rotenberg, who heads the Electronic Privacy Information Center. Rotenberg is about as staunch a privacy advocate as I know, and I can't imagine him finding much common ground with Etzioni—but Etzioni told me "Marc is among all the people in this area the most reasonable. One can talk to him."

So I called Rotenberg, too. He said he deeply respects Etzioni, but can't find much in his book to agree with. For all the talk of the balance, he says, "we have invariably found that when the rights of the individual are balanced against the claims of the community, that the individual loses out."

We're in the midst of a "privacy crisis" in which "we have been unable to come up with solutions to the challenges of running business practices and new technologies are creating," Rotenberg told me. The way answers, he suggested, is not to see middle ground but to draw the lines more clearly, the way judges do in deciding cases. When a criminal defendant challenges a policeman's pat-down search in court, Rotenberg explained, "the guy with the plastic bag of cocaine either gets to walk or he doesn't... . Making those lines more clear, does not really take you any closer to finding answers."

As you can see, this is one argument that isn't settled. But I'm glad that Etzioni has helped me to see, in the acknowledgment he brings to it, and for the dialogue he will spark.

Mr. TORRICEILLI. Mr. President, I rise today to introduce the Privacy Protection Study Commission Act of 1999. My goal, in my capacity as the chairman of the Senate Judiciary Committee, is to ensure that we have comprehensive legal protection for personal information. The United States is one of the few countries in the world that does not have comprehensive legal protection for personal information. This is in part due to differences in opinion regarding the best way to address the problem. While some argue that the Internet's size and constantly changing technology demands government and industry self-regulation, others advocate for strong legislative solutions. And, still others note that such protections, although necessary, could lead to unconstitutional consequences if drafted without a comprehensive understanding of the issue. As a result, congressional efforts to address privacy concerns have been patchwork in nature.

This is why Senator KOHL and I are proposing the creation of a Commission with the purpose of thoughtfully considering the range of issues involved in the privacy debate and the implications of self-regulation, legislation, and federal regulation. The Commission will be comprised of experts in the fields of law, civil rights, business, and government. After 18 months, the Commission will deliver a report to Congress recommending the necessary legislative protections are needed. The Commission will have the authority to gather the necessary information to reach conclusions that are balanced and fair.

Americans are genuinely concerned about individual privacy. The Privacy Commission proposed by Senator KOHL and myself will enable Congress and the public to analyze the extent to which we should be concerned and the proper way to address those concerns. The privacy debate is multifaceted and I encourage my colleagues to join Senator KOHL and myself in our efforts to gain a better understanding of it. Senate Resolution 507, and I look forward to working with all those interested in furthering this debate and giving Americans a greater sense of confidence in the security of their personal information.

By Mrs. FEINSTEIN:

S. 1902. A bill to require disclosure under the Freedom of Information Act regarding certain persons and records of the Japanese Imperial Army in a way that does not impair any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes; to the Committee on the Judiciary.

JAPANESE IMPERIAL ARMY DISCLOSURE ACT OF 1999

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Japanese Imperial Army Disclosure Act of 1999. This legislation will require the disclosure under the Freedom of Information Act classified records and documents in the possession of the U.S. Government regarding chemical and biological experiments carried out by Japan during the course of the Second World War.

Let me preface my statement by making clear that none of the remarks that I will make in discussing this legislation should be considered anti-Japanese. I was proud to serve as the President of the Japan Society of Northern California, and I have done everything I can to foster, promote, and develop positive relations between Japan, the United States, China, and other states of the region. The legislation I introduce today is eagerly sought by a large number of Californians who believe that there is an effort to keep information about possible atrocities and experiments with poisonous gas and germ warfare from the public record.

One of my most important goals in the Senate is to see the development of a Pacific Rim community that is peaceful and stable. I have worked to see that the time for closure and healing was overdue for over twenty years. I introduce this legislation to try to heal wounds that still remain, particularly in California's Chinese-American community.

This legislation is needed because although the Second World War ended over fifty years ago—and with it Japan's chemical and biological weapons experimentation programs—many of the records and documents regarding Japan's wartime activities remain classified and hidden in U.S. government archives and repositories. Even worse, according to some scholars, some of these records are now being inadvertently destroyed.

For the many U.S. Army veteran's who have sought my help in obtaining information which was revealed at the International Military Tribunal for the Far East, starting in 1946, when the so-called "Mukden incident" provided Japan the pretext for the occupation of Manchuria, the Japanese Imperial Army conducted numerous experiments on Chinese, Allied POWs, and possibly Japanese civilians as well.

Perhaps the most notorious of these experiments were carried out under General Ishii Shiro, a Japanese Army surgeon, who, by the late 1930's had built a large installation in China with germ breeding facilities, testing
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GRANADA HILLS, CA, October 7, 1999.

HON. SENATOR DIANNE FEINSTEIN,
Hart Senate Office Building, Washington, DC.

Today, I have the privilege of standing in this chamber [Senator Feinsteins speech goes on to discuss the Japanese Imperial Army Medical Corps and its experiments during World War II, including the use of human test subjects at places like Dugway Proving Grounds in Utah, at Fort Detrick in Maryland, and at the Pentagon. She highlights the importance of declassifying records to preserve the memory of those who suffered and to hold the Japanese Imperial Army accountable for its actions. She also emphasizes the need for transparency and openness in the handling of such sensitive information.

...
President of the United States. Moreover, “sensitive” documents—as defined by archivists and FOIA officers—are at the moment being destroyed. Thus, historians and concerned citizens are denied access to information that can shed some light on the terrible atrocities committed by Japanese militarists in the past.

Three examples of this wanton destruction should be illustrative of the dangers that exist, and should reinforce the obvious necessity for prompt passage of legislation you propose to introduce into the Congress:

1. In 1991, the Librarian at Dugway Proving Grounds, Dugway, Utah, denied me access to the archives at the facility. It was only through the intervention of then U.S. Representative Jim Owens, Utah-Dem., that I was given permission to visit the facility. I was not shown all the holdings relating to Japanese medical experiments, but the little I was permitted to examine revealed a great deal of information about medical war crimes. Sometimes after my visit, a person with intimate knowledge of Dugway’s operations, who was not an archivist, stated to me that information related to the experiments was destroyed there as a direct result of my research in their library.

2. I conducted much of my American research at Fort Detrick in Frederick, Md. The Public Information Officer there was extremely helpful to me. Two weeks ago I telephoned Detrick, was informed that the PIO had retired last May. I spoke with the new PIO, who told me that Detrick no longer would discuss past research activities, but would disclose information only on current PIOs. He informed me that upon retiring he was told to “get rid of that stuff,” meaning incriminating documents relating to Japanese medical war crimes. Detrick no longer is a viable research center for historians.

3. Within the past 2 weeks, I was informed that the Pentagon, for “space reasons”, decided to rid itself of all biological warfare documents in its holdings prior to 1949. The date is important, because all war crimes trials against accused Japanese war criminals were terminated by 1949. Thus, current Pentagon PIOs could not implicate alleged Japanese war criminals. Fortunately, a private research facility in Washington volunteered to retrieve the documents in question. The facility now holds the documents, is currently cataloging them (estimated completion time, at least twelve months), and is guarding the documents under “tight security.”

Your proposed legislation must be acted upon promptly. Many of the victims of Japanesen war crimes are elderly. Some of the victims pass away daily. Their suffering should receive some compensation. Moreover, History is being cheated. As documents disappear, the story of war crimes committed in the War in The Pacific becomes more and more difficult to describe. The end result will be a distorted picture of reality. As a Historian, I cannot accept this inevitability without vigorous protest.

Please excuse the length of this letter. However, I hope that some of the arguments I made in comments above will be of some assistance to you as you press for passage of the proposed legislation. I will be happy to be of any additional assistance to you, should you wish to call upon me for further information or documentation.

Sincerely yours,

[From the Bulletin of the Atomic Scientists, Oct., 1981] JAPAN’S BIOLOGICAL WEAPONS: 1930-1945—A HIDDEN CHAPTER IN HISTORY (By Robert Gomer, J. W. Powell and Bert Honk)" When this story first reached the Bulletin, our reaction was horrified disbelief. I think all of us hoped that it was not true. Unfortunately, subsequent research shows that it is true, and that the facts set forth here enlisted the help of a number of distinguished scientists and historians, who are hereby thanked. It seems unnecessary to emphasize that the allegations set forth in this article seem to be true and there is a substantial file of documents in the Bulletin offices to back them up.

What other comment need one really make? Any reader with a sense of justice and decency will be nauseated, not only by these atrocities, but equally so by the reaction of the U.S. Departments of War and State.

The psychological climate engendered by war is horrible. The Japanese tortured and killed helpless prisoners in search of “a cheap and effective weapon.” The Americans and British invented firestorms and the U.S. government’s participation in the biological warfare experiments is understandable. “Public health in reverse” is understandable.

We have no right to speak of the harsh realities of the world in order to act both bestially and stupidly. The world already does its share of horror, brutality, and folly, and somehow there is a sort of potential divine justice basic decency generally would have been the smartest course in the long run. Unfortunately there are few instances where it was actually taken.

The spirit and psychological climate which made possible the horrors described in this article are not dead; in fact, they seem to be flourishing in the world. The torture chambers are busy in Latin America and elsewhere, and the United States provides economic and diplomatic support to regimes which are busy in Latin America and elsewhere.

The record shows that by the late 1930s Japan had gained this undisputed lead primarily because its scientists used humans as guinea pigs. It is estimated that at least 3,000 people were killed at the main biological warfare experimental station, code named “731,” and thousands from Harbin. They either succumbed during the experiments or were executed when they had become physically weak and were no longer fit for further germ tests (pp. 19-21). There is no estimate of total casualties but it is known that at least two Japanese biological warfare installations—Unit 100 near Changchun and the Tama Detachment in Nanjing—engaged in similar human experimentation.

[End Notes at end of article] This much of the story has been available for some years. What has not been known until very recently is that among the many war crimes trials in which there were anumber of American soldiers, captured during the early part of the war and confined in prisoner-of-war camps in Manchuria. Official U.S. records have been destroyed in these facts when the decision was made to forego professional legal. The Japanese participated in these facts that the decision was made to forego prosecution of the Japanese participants.

These declassified “top secret” documents disclose the details and raise disturbing questions about the role of numerous highly placed American officials at the time.

The first public indications that American participation in war crimes might result from the victim appeared in the published summary of the Khabarovsk trial. A witness stated that a researcher was sent to the camps where U.S. prisoners were held to “study the immunity of Anglo-Saxons to infectious diseases” [1, p. 268]. The summary noted: “As early as 1943, Minata, a researcher belonging to Detachment 731, was sent to prisoner of war camps to test the properties of the blood and immunity to contagious diseases of American soldiers.” [1, p. 452].

On June 6, 1944, Olga A. Carpenter, chief of General Douglas MacArthur’s legal staff, in a top secret cable to Washington, expressed doubt about the reliability of early reports of Japanese war crimes, including an allegation by the Japanese Communist Party that experiments had been performed “on captured Americans in Mukden and that simultaneously research on similar lines was conducted in Tokyo and Kyoto.” On June 27, Carpenter again cabled Wash. D.C., stating that further investigation strengthened the charges and “warrants conclusion” that the Ishii group had violated the “rules of war.” He warned that this evidence of the Japanese use of biological warfare against China and “other evidence on this subject which may have resulted from their independent investigation in Manchuria and in Japan.” He added that “this expression of opinion” was not a recommendation that the Ishii group should be charged with war crimes.

Conr. Hubbell, a member of the State, War, Navy Coordinating Committee, in a July 15, 1947 memo, recommended that the story be covered up but warned that it might find its way out of Japan. He included a sketch of the subject up during the Tokyo war crimes trials and added that the Soviets might have found out that “American prisoners of war were used for experiments for which germ warfare was a rw for further germ warfare and that they lost their lives as a result of these experiments.”

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In his book, *The Pacific War* Professor Lenaga Saburo added a few new details about Unit 731 and described fatal vivisection experiments at Kyushu Imperial University on downed American aviators (pp. 102-107, 3). Ishii, who finally rose to the rank of lieutenant-general, built a large, self-contained installation with sophisticated germ- and insect-breeding apparatus for human experimentees, test grounds, an arsenal for making germ bombs, an airfield, its own special planes and a crematorium for the human victims.

When Soviet tanks crossed the Siberian-Manchurian border at midnight on August 8, 1945, Japan was less than a week away from unconditional surrender. In those few days of grace the Japane destroyed their biological warfare installations in China, killed the remaining experimentees (it took three days to kill the 2,000 persons who had been transferred to Japan) and shipped most of their personnel and some of the more valuable equipment to South Korea [1, pp. 43, 125]. Atlantis, the name for an Israeli spy who was transferred from the United States to Israel in 1954, was created from the name of a mythical continent. The Atlantis project was designed to supply an American company with intelligence on the progress of a European weapons program. The project was abandoned in 1955 after several years of operation.

A “top secret” cable from Tokyo to Washington on May 6, 1947, described some of the information that was being secured by the日本. Ishii states that if guaranteed that the information from this group regarding BW experiments will be of great value to the U.S. BW program" and added: “The value to U.S. of Japanese BW data is of such importance that no effort should be spared in the future to secure such information from certain types of human experimentation.”

Wetter and Stubblefield also stated that they had interviewed the former officers in the possession of “only a small portion of this technical information” and that since “any ‘war crimes’ trial would completely reveal such data to all nations, it is felt that such publicity must be avoided in the interests of defense and national security of the U.S.” They emphasized that the knowledge gained from Japanese BW experiments “will be of great value to the U.S. BW research program” and added: “The value to U.S. of Japanese BW data is of such importance that no effort should be spared in the future to secure such information from certain types of human experimentation.”

Hubbert raised the possibility that the whole thing might be a feint if the Soviets were to bring it up in cross-examining major Japanese war criminals at the Tokyo trial and cautioned: “It should be kept in mind that there is a remote possibility that independent investigation conducted by the Soviets in the Mukden area may have disclosed evidence that the American scientists were interested in experimental purposes of a BW nature and that they lost their lives as a result of these experiments.”

Despite these risks, Hubbert concurred with the Wetter-Stubblefield recommendation that the issue be kept secret and that the Japanese biological warfare personnel be employed in the U.S. 

"The Japanese BW group is the only known source of data from scientifically controlled experiments showing the direct effect of BW agents on man. In the past it was necessary to rely on the effects of BW agents on man from data obtained through animal experimentation. Such evaluation is inconclusive and far less complete than data obtained from certain types of human experimentation.”
committee for the Far East, are in agreement that the Japanese BW group should be informed that this Government would retain its right to supply such information to any appropriate authority as the situation may dictate. It is also the opinion of the United States that the Japanese BW group should be informed that the Japanese are not to use biological warfare agents in any manner which would prejudice the peace and security of the world.

In conclusion, it is recommended that the Japanese BW group be informed of the United States' position on biological warfare and that the group be assured of the United States' willingness to supply appropriate information to any authority that may need it in the future.
record” of his testimony. Takahashi, an ex-
surgeon and Army major, stated: “I went to the G.H.O. twice in 1947. Investigators made me write reports on the condition that they will not be released to the world. So I went to Kumamoto, an ex-flight engineer, said that after the war General Ishii went to America and “took his research data and begged for remission for us all.”

Declassified position papers indicate a dif-
fERENCE in opinion on how to deal with the question of immunity. The War Department favored, according to Ishii’s demands, for immu-

nity in documentary form. The State De-

partment, however, cautioned against put-
ting anything in writing which might later cause trouble. Ishii, arguing that a J

apaneSE were told the information would be kept in classified intelligence channels that would be sufficient protection. In any event, a satisfactory arrangement apparently was

worked out as none of the biological warfare

personnel was subsequently charged with war crimes and the United States obtained full details of J apan’s program.

The J apanese experts who, Dr. Hill hoped, would “be spared embarrassment,” not only used中国 citizens as guinea pigs in experiments to determine lethal dosages but on occasion—in their pursuit of exact scientific in-
formation—made certain that the experimen-
tees did not survive. A group would be brought down with a disease and, as the infection developed, individuals would be selected out of the group and killed. Autop-

sies were performed, so that the progress of the disease could be ascertained at various time frames.

General Kitano Masaji and Dr. Kasahara Shirô rejoiced in practice. In a report prepared for U.S. officials describing their work on hemorrhagic fever:

“Since the first large-scale outbreak the disease has spread to a number of Chinese and to almost all the people of the city. The number of cases reported to the Hôpital de Ningpo was 39.8 C. This subject was sacrificed when fever was subsiding, about the 12th day.”

Clearly, U.S. biological warfare experts learned a lot from their Japanese counter-
parts. While we do not yet know exactly how much this information advanced the Amer-

ican program, we have the Fort Detrick doc-

tors’ testimony that it was “invaluable.”

And it is known that some of the biological weapons developed later at least were simi-
lar to ones that had been part of the J apanese arsenal. The feathers with spore diseases was one of Ishii’s achievements and feather bombs later became a weapon in America’s biological arsenal.

Dr. Leroy D. Fothergill, long-time scien-
tific advisor to the U.S. Army’s Biological Laboratories at Fort Detrick, once specu-
lated that some of the possible spin-off ef-
fects of a biological warfare attack:

“Everything that breathes in the exposed area has an opportunity to be exposed to the agent. This will involve vast numbers of mammals, birds, reptiles, amphibians, and insects. . . . Surveys have indicated sur-

prising numbers of wild life inhabiting each square mile of the United States. General Ishii and many of the top members of Unit 731 lived out their full lives, suffering only the natural afflictions of old age. A few of them, however, enjoyed exceptional good health and at the time of writing were living in quiet retire-

ment.”

GENERAL HEADQUARTERS, SUPREME

COMMANDER FOR THE ALLIED POWER-

ERS,

Mar 27, 47.

BRIEF FOR THE CHIEF OF STAFF

1. This has to do with Russian requests for transfer of the former J apanese expert in Bacteriological Warfare.

2. The United States has primary interest, has already interrogated this man and his in-

formation is held by the U.S. Chemical Corps classified as TOP SECRET.

3. The Russian has made several attempts to get at this man. We have stalled. He now hopes to make a new move, suddenly claiming the J apanese expert as a war criminal.

4. J oint Chiefs of Staff direct that this not be done but concur in a SCAP controlled in-

terrogation providing expert assistance not available in F E C.

5. This memorandum recommends:

a. Radio to WD for two experts.

b. Letter to USSR refusing to turn over J apanese expert.

As requested by the International Prosecution Section initiating action on the J CS

Approved interrogations.
“ratification function” of the reached consensus [2, p. 321]. It is clear that this imper- fect confirmation gives a decision an exception- al authority: the command of the em- peror is clear, however the emperor has a kind of loud-speaker function. He is heard, and obeyed, but he speaks only on the recommendation of the government. Vice emperor acts in a per- sonal manner. One such occasion was his criticism of the behavior of the Japane- ese army in Manchuria (the so-called Manchur- ian Incident). He is often described as a man who had a role in connection with the capitulation at the end of World War II. Despite the atomic bombs and the Soviet Union’s invasion, the war was divided and could not come to a decision because the military refused to surrender. Their motiva- tion: the existence of the imperial system was not sufficiently guaranteed. In a very exceptional move, the emperor was brought in to make the decision. He took the risk, and decided for immediate capitulation.

Thus the emphasis on the personal secret involvement of the emperor in the Khabarovsk trial account make it appear untrustworthiness. The setup can be perceived as a source of arguments in favor of inditing the emperor. I remember at that time, writing to show the danger of national postwar judgments, which misused for political purposes, and giving the Khabarovsk trial as an example. I must state now that the Japane- ese misbehavior as described in the book, has been confirmed by the recently disclosed American documents.

Immunity from prosecution was granted in exchange for Japane- ese scientific findings concerning biological weapons, based on dis- graming criminal research on human beings. We learn from these documents that it was considered essential for the imperial system that information was obtained that had cost mil- lions of dollars and thousands of human lives. The American authorities were worry- ing only about the prospect of the human outcry in the United States, which surely would have taken place if the American peo- ple had been informed about this “deal.”

The security that surrounds the military makes it possible for military behavior to deviate considerably from the prevailing public morality. A leader always has a danger of a moral decline when such deviation takes place. It leads gradually to contempt for the military, as witness the public attitude in connection with events in the United States. The kind of military behavior that occurred in connection with the Japane- ese biological weapon atrocities can only contribute fur- ther to this attitude.

Respect for what the Nuremberg judgment called “the honorable profession of arms” is needed. Military power is still indispensable in our times, and we must ensure that the security is, so it is desirable for it to be held in high esteem. Power which is despised may become dangerous. Moreover, only if the military has the respect, will it at- ttract the personnel it should have.

The same is true of diplomatic service, which has a kind of loud- speaker function. This respect will disappear if the ser- vice indulges in subversive activities, as the U.S. diplomatic mission did in Iran. That diplomatic misbehavior in Iran led to develop- ments—the hostage crisis—which were dis- astrous for the whole world.

The documents which have come to light inform us also of the use of biological weap- ons in the war against the Chinese people. The criminal warfare was not mentioned in the Tokyo indictment, and not discussed be- fore the International Military Tribunal. The war crimes were not known from the world. The immunity granted to the Japane- ese war criminals covered not only deadly research on living persons, but also the use of biological weapons against the Chinese. And all this so that the United States could obtain exclusive access to the important information at the cost of thousands of human lives.

Knowledge about what kind of bargain was being struck in the biological weapons area of the biological warfare unit was compromised by the repu- liveness of war. It may also show the danger of moral depravity, in peacetime, within the circles that have the instruments of military power in their hands.

END NOTES

1. Materials on the Trial of Former Serv- icemen of the Japane- ese Army Charged with Manufacturing and Employing Bacterio- logical Weapons (with English transla- tions) (Tokyo: Languages Publishing House, 1950), pp. 19–21. This volume is a summary of the transcript of the Soviet trial in Khabarovsk, Siberia, Dec.20–25, 1949, of 12 captured Japane- se Army personnel charged with participation in the biological warfare program. For a later reference to the program see Outline History of Science and Technology in Japan, ("Nihon Kagaku Gijutsu-shi Taikei"), Vol. 25 (Medicine 2, 1967), pp. 309–10. This account states that the biological warfare program was organized by "warorder Rekkō" who early on began special research on bacteria, members of the epide- mic-prevention section shall be sent to Manchuria." It also stated that little was done during the war since all reports were said to have been destroyed and that the only evidence that was pro- duced at the Khabarovsk trial. It did add, however, that General Ishii had avoided prosecution by turning over his materials to U.S. authorities. I have not seen this volume and am indebted to John Dower, of the University of Wisconsin, who supplied the citation.


3. Although most U.S. documents and the Soviet trial summary give Ishii credit for originating the biological warfare program, it is possible that he was only the chosen instru- ment. There are references indicating in- terest in the program at higher levels. The "staff officer" of Ishii’s Operations Division was Lieutenant Colonel Miyata, who in real life had two close friends: his wife’s court was Gen. Nagata Tetsuzan, long Japa- nese top military man [1, pp. 106, 295], while later reference to the program see Outline History of Science and Technology in Japan, ("Nihon Kagaku Gijutsu-shi Taikei"), Vol. 25 (Medicine 2, 1967), pp. 104, 143.

4. "A Bruise—Terror of the 731 Corps," Tokyo Broadcasting System television docu- mentary, produced by Yosihaha Haruko, shown Nov. 2, 1976. It has also been screened in Europe but not in the United States. How- ever, the Washington Post (Nov. 19, 1976) car- ried a lengthy news story describing the film. In an interview with Post reporter John Saar, Yosihaha said five former mem- bers of the biological warfare unit told him that they were promised complete protection in return for cooperation with U.S. authorities. "All the important documents were given to the United States," he added.

5. This “top secret” cable [C-52422] also re- veals that the first of the biological warfare experts to be sent from Washington to Jap- anese 731 unit had been Maj. General "Dr. No- bert H. Fel’s letters via air courier to Gen- eral Alden C. Waitt," who was then chief of the U.S. Army Chemical Corps.

6. Gable wrote to Tokyo on April 2, 1947, stating that Fel would leave for Jap- an on April 5. A cable from Tokyo to the War Department on June 30, 1947, warns that "Fell will avoid U.S. interests" and urges that Fell (presumably now returned to Wash- ington) be shown recent cables because he is an expert and can appreciate the value of the Japane- ese BW material.

7. Top secret Memorandum for the Record (May 4, 1947) indicated that "in response to "War Department Radio W-94446 & SWNCC 351/J and was signed "RPM 26±6166."


9. Dated July 1, 1947, and titled, "Interroga- tion of Certain Japane- ese by Russian Pros- ecutors," indicated that the material already obtained, including a "60 page report" covering experiments on hu- mans, "confirmed the sup- ports and supplements U.S. research and "may suggest new fields for future re- search." Record Group No. 153, National Ar- chives.

10. This July 15, 1947, memo is addressed to Commander J. B. Cresap and signed "Cecil F. Hubbert, member working party (SWNCC 351/ 200.)"

11. Undated and titled "SFE 182/2," it was part of National Archives Record Group No. 153.


14. In order to ascertain the Nationalist pos- sibilities of this issue after the passage of some 40 years, I checked with Taipei and am grate- ful to Lieutenant General Teng Shu-wei, of the Nationalist Defense Ministry’s Medical Bureau, who searched the Taiwan archives. His report is in substantial agreement with the records of the People’s Republic in Bei- jing, although less complete.

15. Eugene Shue, Aug. 45; jimbutsu Ohrai (July 16, 1950).

16. “Terrible Modern Strategic War” by Kimura Bumpei. I have not seen this book and am relying upon a brief description of it contained in a March 31, 1959, letter from Tokyo attorney Morikawa Kinji to A.L. Wirin, chief counsel of the American Civil Liberties Union in Los Angeles.


23. This article is based, in part, on an article by the author in Bulletin of Concerned Asian Scholars (P.O. Box W, Charlemon, MA 01339), 12:4, pp. 2–15.

By Mr. SHELBY (for himself and Mr. BRYAN):

S. 1903. A bill to amend the privacy provisions of the Gramm-Leach-Bliley Act; to the Committee on Banking, Housing, and Urban Affairs.

CONSUMER’S RIGHT TO FINANCIAL PRIVACY ACT

Mr. SHELBY. Mr. President, I rise today to offer the “Consumer’s Right to Financial Privacy Act” for myself and Senator Bryan. This bill would ad- dress the significant deficiencies in the Financial Services Modernization Act Act passed by this very body last week. Our bill would provide that con- sumers have (1) notice of the categories
of nonpublic personal information that institutions collect, as well as the practices and policies of that institution with respect to disclosing nonpublic information; (2) access to the nonpublic personal information collected and used by the financial institution; and (3) affirmatively present, that is that the financial institution must receive the affirmative consent of the consumer, also referred to as an opt-in, in order to share such information with third parties and affiliates. My provision would require that this federal law not preempt stronger state privacy laws. This bill is drafted largely after the amendment Senator Bryan and I offered in the Conference on Financial Services Modernization, but failed to get adopted due to the Conference's rush to pass a financial modernization bill, no matter what the cost.

I know I think that opt-in is extreme, but I have to tell you that is what the American people want. Over the past year I have learned a great deal about the activities of institutions sharing sensitive personal information. Many people are aware, but it has become a common practice for state department of motor vehicles to sell the drivers license information, including name, height, weight, social security number, vehicle identification number, motor vehicle registration number, and more. Some states even sold the digital photo image of each driver’s license.

I was not aware of this practice going on. When I learned about it and studied it a little closer, I found several groups who were outraged by this practice. One such group was Eagle Forum. Another such group was the ACLU. Still another group was the Free Congress Foundation. Before I knew it, there was an ad-hoc coalition of groups not only supporting the issue of driver’s license privacy, but demanding it.

Thanks to the hard work of these groups, I was able to include an opt-in provision for people applying for drivers licenses. I also included a state department of motor vehicles that provision sailed through the Senate and then the House. That bill was signed into law by President Clinton. Despite significant lobbying by the direct marketing industry, not one member of the House or Senate took to the floor and said, “I believe we should not allow consumers to choose whether or not their drivers license information, including their picture, should be sold or traded away like privacy data. No one objected to the opt-in. As a result, I believe very strongly that Congress has already set the bar on this issue. Opt-in is not just reasonable, it is the right thing to do. Meaningfully the ad hoc coalition, which is continuing to grow and includes every ideology from conservative to liberal, has signed on to four basic principles with regard to financial privacy. The principles include notice, access and consent, but also a requirement that federal laws not preempt stronger state laws. Our amendment incorporates those four basic principles.

Now my basic question is this, why would anyone oppose this bill? Only if you believe the financial services industry cannot make money by doing business above the table and on the level for everyone to see in the “sunshine” if you will. If you believe that you could make money only by deceiving their customers or leaving those customers in the dark, then maybe you should oppose this bill. I do not subscribe to such a belief.

Industry will tell you that if they are required to disclose information, consumers will not, and therefore business will shut down. What does that tell you that consumers would not choose to opt-in? It means people don’t want their information shared. If that is such a problem, it seems to me the business would spend more time educating the consumer as to the benefits of information sharing. That is where the burden to convince the consumer to buy the product should be—on the business.

During the financial modernization debate, the financial industry, along with Citigroup communicated to Congress that they would not be able to operate or function appropriately with an opt-in requirement. I find that very difficult to comprehend, seeing as Citibank signed an agreement with their German affiliates in 1995 allowing German citizens the opportunity to tell Citibank “no,” they did not want their personal data shared with third parties. I have a copy of the contract to prove it.

Entitled, Agreement on “Interterritorial Data Protection” one can see this is an agreement on the sharing of customer information between Citibank (South Dakota), referred in the document as CNA, and its German affiliates. On page two paragraph 4, entitled, Use of Subcontractors, Transmission of Data to Third Parties, number 2 reads:

For marketing purposes, the transfer of personal data may be provided by the Card Service Companies (that is Citicorp and Citicorp Card Operations of Germany) is prohibited, except in those cases where such personal data is transferred to affiliated companies engaged in banking business in order to market financial services; the transfer of such data beyond the aforementioned requirements shall require the Card Service Companies’ express approval. Such approval is limited to the scope of the Card Customers’ consent as obtained on the application form.

That ladies and gentlemen, is an opt-in to operate in Germany, by none other than Citigroup, the number one proponent of financial modernization. Now if they can offer financial privacy to individuals in Germany why on God’s green earth can’t they agree to an opt-in here in America? Do Germans have special rights over Americans? I should hope not.

Mr. President, simply put, this bill is what American want. It is an opt-in bill and workable as proven in the Citigroup agreement. The truth is that the American people do not understand the intricacies of banking law or securities regulation. They probably do not know or care much about affiliates or operating subsidiaries. What I do know, is that if you walked outside and polled people from New York City to Los Angeles, CA, and everywhere in between, they would not only understand financial privacy, 90 percent of them would demand financial privacy and the ability to tell an institution “no.”

Mr. President, in passing the financial modernization bill, Congress gave mammoth financial services companies unprecedented ability to collect, share, buy and sell a consumers nonpublic personal financial information. During the debate, many members promised they would address privacy, but only in a separate bill at a later time. Well, Mr. President, the time is now and the bill is the “Consumer’s Right to Financial Privacy Act.”

The financial industry may have won the battle by keeping stronger financial privacy provisions out of the financial modernization bill. But I assure you they have not won the war. They cannot win the war on financial privacy because the American people just won’t allow it.

Mr. President, I ask unanimous consent that the agreement on “International Data Protection” be printed in the RECORD.

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

AGREEMENT ON INTERTERRITORIAL DATA PROTECTION

BY AND BETWEEN

1. Citicorp Kartenservice GmbH, Wilhelm-Leuschner-Str. 32, 60329 Frankfurt/M, Germany (CKS)

2. Citicorp Card Operations GmbH, Benteheimer Straße 118, 48529 Nordhorn, Germany (CCO)

3. Citibank (South Dakota), N.A., Attn.: Office of the President, 701 E. 60th Street North, Sioux Falls, South Dakota 57117 (CNA)

4. Citibank, Privatkunden AG, Kasernenstraße 10, 40213 Düsseldorf, Germany (CIP)

RECIPIENT

1. CIP has unrestricted authority to engage in banking transactions. As a license of VISA International, CIP issues the Citibank Visa Card”. Additionally, since July 1st, 1995, CIP has been cooperating with the Deutsche Bahn AG providing the “DB/Citibank BahnCard” with a cash-free payment function—hereinafter referred to as “DB/Citibank BahnCard”—on the basis of a Co-Branding Agreement entered into between Deutsche Bahn AG and CIP on November 18th, 1994. After the conclusion of the Agreement, the co-branding business was extended to include the issuance of the DB/Citibank BahnCard without a cash-free payment function, known as BahnCard “pure”.

2. CIP transferred to CKS the operations of the Citibank Visa cards, including accounting and electronic data processing, on the basis of the terms of a Service Agreement (non-gratuitous contract for services). The Agreement was executed as of June 1, 1995 and November 30, 1995. Details are contained in the “CKS Service
§3 INSPECTION RIGHTS OF THE CARD SERVICE COMPANIES

At regular intervals, an (joint) agent appointed by the Card Service Companies shall verify whether CNA complies with the terms, conditions and provisions contained in this Agreement and in particular with the data protection law as well as the banking secrecy regulations. CNA undertake to implement suitable measures to prevent the unauthorized reading, copying, alteration or deletion of the data transferred by the Card Service Companies and to work areas, control cards, process control methods, program cataloging authorization, g. Policies controlling the production of back-up copies.

3. Data memory control
CNA undertakes to implement suitable measures to prevent unauthorized input into data media and the unauthorized read-
ing, alteration or deletion of the stored data on Card Customers.

This shall be accomplished by:

a. Identification of the terminal and/or the terminal user to the DB/Citibank BahnCard customers;

b. Automatic log-off of the user ID's that have not been used for a substantial period of time.

c. Issuing and safeguarding of identification codes;

d. Dedication of individual terminals and/or terminal users, identification characteristics exclusive to specific functions;

e. Evaluation of records.

5. Personnel control
When this is requested, CNA shall provide the Card Service Companies with a list of the CNA employees entrusted with processing the personal data transferred by the Card Service Companies, together with a description of their access rights.

6. Access control to data
CNA commits that the persons entitled to use CNA's data processing system are only able to access the data within the scope and to the extent covered by the respective access permission (authorization).

This shall be accomplished by:

a. Allocation of individual terminals and/or terminal user to the DB/Citibank BahnCard customers;

b. Automatic log-off of the user ID when several erroneous passwords are entered, log file of events, (monitoring of break-in-attempts);

c. CNA and the Card Service Companies undertake to institute and maintain the following data protection measures:

1. Access control of persons
CNA shall implement suitable measures in order to prevent unauthorized persons from gaining access to the data processing equipment where the data transferred by the Card Service Companies are processed.

This shall be accomplished by:

a. Establishing security areas;

b. Protection and restriction of access paths;

c. Securing the decentralized data processing equipment and personal computers;

d. Establishing corporations for employees and third parties, including the respective documentation;

e. Identification of the persons having access authority;

f. Regulations on key-codes;

g. Restriction on keys;

h. Code card pass-words;

i. Visitors books;

j. Time recording equipment;

k. Security alarm system or other appropriate sensors and measures.

2. Data media control
CNA undertake to implement suitable measures to prevent the unauthorized reading, copying, alteration or removal of the data media used by CNA and containing personal data of the Card Customers.

This shall be accomplished by:

a. Designating the areas in which data media may/must be located;

b. Designating the persons in such areas who are authorized to remove data media;

c. Granting the removal of such data media;

d. Securing the areas in which data media are located;

e. Release of data media to only authorized persons;

f. Control of files, controlled and documented destruction of data media;
b. Documentation of the remote locations/destinations to which a transmission paths (logical paths).
8. Input control
CNA shall provide for the retrospective ability to retain the data transmitted and determine the time and the point of the Card Customers’ data entry into CNA’s data processing system.
This shall be accomplished by:
1. Providing the Card Service Companies with the input authorization program of CNA’s data processing system.
2. Electronic recording of entries.

9. Instructional control
The Card Service Companies’ data transferred by the Card Service Companies to CNA may only be processed in accordance with instructions of the Card Service Companies.
This shall be accomplished by:
1. Binding policies and procedures for CNA employees, subject to the Card Service Companies’ prior approval of such procedures and policies.
2. Upon request, access will be granted to those Card Service Companies’ employees and agents who are responsible for monitoring CNA’s compliance with this Agreement (c.f. §3 hereof.)

10. Transport control
CNA and the Card Service Companies shall implement protective measures to prevent the Card Customers’ personal data from being read, copied, altered or deleted by unauthorized persons during the transmission thereof or during manipulation of the data media.
This shall be accomplished by:
1. Encryption of the data for on-line transmission, or transport means of data carriers, tapes and cards.
2. Monitoring of the completeness and correctness of the transfer of data (end-to-end checks).

II. Organization control
CNA shall maintain its internal organization in a manner that meets the requirements of this Agreement.
This shall be accomplished by:
1. Internal CNA policies and procedures, guidelines, work instructions, process descriptions, and regulations for programming, testing and release, as well as the Card Service Companies’ own purposes, and such data are processed to serve Card Service Companies’ own purposes.
2. The Card Service Companies undertake to notify the concern personal’s request to correct his personal data at any time, provided that the stored data are incorrect.
3. The concerned person may claim from the responsible Card Service Companies the deletion or blocking of any data stored at the request of CNA.
4. The concerned person may also demand the withdrawal of consent to the storage of such data.
5. This shall be accomplished by:
   a. Internal CNA policies and procedures, guidelines, work instructions, process descriptions, and regulations for programming, testing and release, as well as the Card Service Companies’ own purposes, and such data are processed to serve Card Service Companies’ own purposes.
   b. Monitoring of the completeness and correctness of the transfer of data (end-to-end checks).

§7 CONFIDENTIALITY OBLIGATION
CNA shall impose a confidentiality obligation on those employees entrusted with processing the personal data transferred by the Card Service Companies. CNA shall further ensure compliance with the banking and data secrecy regulations and document such employees’ obligation in writing. Upon request, CNA shall provide the Card Service Companies with satisfactory evidence of compliance with this provision.

§8 RIGHTS OF CONCERNED PERSONS
1. At any time, Card Customers whose data are transferred by CIP to the Card Service Companies and further transferred by the Card Service Companies to CNA, shall be entitled to make inquiries to CNA (who are required to respond) as to the stored personal data, including the origin and the recipient of the data; the purpose of storage; and the persons and locations/destinations to which such data are transferred on a regular basis.
2. The requested information shall generally be provided in writing.
3. The Card Service Companies shall honor the concerned person’s request to correct his personal data at any time, provided that the stored data are incorrect.
4. The concerned person may claim from the responsible Card Service Companies the deletion or blocking of any data stored at the request of CNA.
5. The concerned person may also demand the withdrawal of consent to the storage of such data.

§9 NOTIFICATION TO THE CONCERNED PERSON
1. At any time, Card Customers whose data are transferred by CIP to the Card Service Companies and further transferred by the Card Service Companies to CNA, shall be entitled to make inquiries to CNA (who are required to respond) as to the stored personal data, including the origin and the recipient of the data; the purpose of storage; and the persons and locations/destinations to which such data are transferred on a regular basis.
2. The requested information shall generally be provided in writing.
3. The concerned person may claim from the responsible Card Service Companies the deletion or blocking of any data stored at the request of CNA.
4. The concerned person may also demand the withdrawal of consent to the storage of such data.

§10 DATA PROTECTION SUPERVISION
1. CNA undertakes to appoint a Data Protection Supervisor and to notify the Card Service Companies of the appointee(s). CNA shall only select an employee with adequate expertise and reliability necessary to perform such a duty, and provide the Card Service Companies with appropriate evidence thereof.
2. The Data Protection Supervisor shall be directly subordinate/accountable to CNA’s General Management. He shall not be bound by instructions which obstruct or hinder the performance of his duty in the field of data protection. He shall cooperate with the Card Service Companies’ agent—as indicated in §3 hereof—in monitoring the performance of this Agreement and adhering to the data protection requirements in conjunction with the data in question. In the event that CNA chooses to change the person who serves as a Data Protection Supervisor, CNA shall give timely notice to the Card Service Companies. CNA shall be responsible for the personal data resulting from such notice. The Data Protection Supervisor shall be bound by confidentiality obligations.

3. The Data Protection Supervisor shall be available on the on-site contact for the Card Service Companies.
Card Service Companies' incompliance with the terms and conditions of this Agreement.

§13. TERM OF THE AGREEMENT
1. This Agreement is effective as of July 1st, 1995, until terminated. It may be terminated by any party hereto at the end of each calendar year upon 12 months notice prior to the expiration date, subject to each party's right of termination of the Agreement for material incompleteness of this Agreement shall be valid term, and the parties hereto further the economical purpose of the in-termination and the economical purpose of the invalid part of this Agreement by such a le-
2. If one or more provisions of this Agreement becomes invalid, or the Agreement is proven to be incomplete, the validity and le-
3. Citibank in the United States and in Eu-
4. By Mr. THOMAS (for himself and Mr. ENZI):
5. §14. CONFIDENTIALITY
The parties hereto commit to treat strictly confidential any trade, business and operating secrets or other sensitive information of the other party involved. In the event that such data.
5. §15. DATA PROTECTION AGREEMENT WITH
6. The Deutsche Bahn AG captures personal data stored at the time of termi-
7. The Citibank subsidiaries in the United States accept on-site audits by the German data protection supervisory authority, i.e., the Berlin Data Protection Commissioner, his nominated agents, e.g., an American con-
8. Finally— and this is not reproduced in
9. §16. GENERAL PROVISIONS
This Agreement sets forth the entire un-
10. The parties hereto agree that the Deutsche
11. The parties hereto commit to treat strictly confidential any trade, business and operating secrets or other sensitive information of the other party involved. In the event that such data.
12. The Deutsche Bahn AG and CIP con-
13. The parties hereto authorize CIP to pro-
14. This Agreement shall be governed by, in-
15. §17. PROCEDURE
16. The parties on both sides of the Atlantic
17. What are the main features of the International
18. The parties on both sides of the Atlantic
19. Customer data may only be processed in the United States for the purpose of pro-
20. §4. This Agreement shall be governed by, in-
21. §3. The parties hereto submit to the juris-
22. §2. If one or more provisions of this Agree-
23. §1. This Agreement sets forth the entire un-
24. §1. The Deutsche Bahn AG captures personal
25. §2. The Deutsche Bahn AG and CIP con-
26. §3. The parties hereto submit to the juris-
27. §4. This technical requirements on data se-
28. §4. The German card customers have all in-
29. §3. The Citibank in the United States and in Eu-
30. §2. CNA commits to return and delete all
31. §1. This Agreement sets forth the entire un-
32. §2. CNA commits to return and delete all
33. §3. The parties hereto submit to the juris-
34. §4. The parties hereto commit to treat strictly confidential any trade, business and operating secrets or other sensitive information of the other party involved. In the event that such data.
35. §5. The parties hereto authorize CIP to pro-
36. §6. The German card customers have all in-
37. §7. The Citibank subsidiaries in the United
38. §8. The parties hereto agree that the Deutsche
The Service should be commended for taking this step.

The next step in the process is allowing those S corporations that can more efficiently function as an LLC the one-time chance to make the conversion, without paying the ongoing tax as a factor. Until these conversions can be accomplished, the task of reducing the rate of taxes in choosing a business form will remain unfinished.

I look forward to working with Senator Dodd and the other members of the Senate Finance Committee so we may take action on this measure as soon as possible.

By Mr. Santorum (for himself, Mr. Dodd, Mr. Torricelli, Mr. Lieberman, Mr. Schumer, and Mr. Lautenberg):

S. 1905. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to authorize the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Labor, and the Secretary of Veterans Affairs to conduct research on Health, Education, Labor, and Pensions.

The Lyme Disease Initiative of 1999

Mr. Santorum, Mr. President, it is with great enthusiasm that I rise today to join my friend and colleague, the senior Senator from Connecticut, Christopher Dodd, in introducing The Lyme Disease Initiative of 1999. This legislation is aimed at waging a comprehensive fight against Lyme disease—America's most common tick-borne illness.

I know that Mr. Dodd shares my sentiments in believing that this legislation could not be more timely or necessary. Lyme disease remains the 2nd fastest growing infectious disease in this country after AIDS. The number of annually reported cases of Lyme disease in the United States has increased about 25-fold since national surveillance began in 1982, and an average of approximately 12,500 cases annually were reported by states to the Centers for Disease Control and Prevention (CDC) from 1993-1997.

Every summer, tens of thousands of Americans enjoying or working in the outdoors are bitten by ticks. While most will experience no medical problems, others are not so lucky—including the 16,801 Americans who contracted Lyme disease last year.

According to some estimates, Lyme disease costs our nation $1 billion to $2 billion in medical costs annually. The number of cases of Lyme disease in 1998 increased 31.2 percent from the previous year—and that is only the tip of the iceberg. Many experts believe the official statistics underestimate the true number of Lyme disease cases by as much as ten or twelve-fold, because Lyme disease can be so difficult to diagnose.

And Lyme is a disease that does not discriminate. Persons of all ages and both genders are equally susceptible, although among the highest attack rates are in children aged 0-14 years.

The Lyme Disease Initiative is a five year, $125 million blueprint for attacking the disease on all fronts. In addition to authorizing the necessary resources to wage this war, this legislation outlines a public health management plan to make the most of our efforts on all fronts to combat Lyme disease.

The Lyme Disease Initiative makes the development of better detection tests for Lyme disease the highest research priority.

The Lyme Disease Initiative sets goals for public health agencies, including instituting public education programs within five years of enactment in the ten states with the highest rates.

The Lyme Disease Initiative fosters better coordination between the scattered Lyme disease programs within the federal government through a five year, joint-agency plan of action.

The Lyme Disease Initiative helps protect workers and visitors at federally-owned lands in endemic areas through a system of periodic, standardized, and publicly available Lyme disease risk assessments.

The Lyme Disease Initiative requires a review of current Lyme disease prevention and surveillance efforts to search for areas of improvement.

The Lyme Disease Initiative fosters additional research into other related tick-borne illnesses so that the problem of co-infection can be addressed.

The Lyme Disease Initiative initiates a plan to boost public and physician understanding about Lyme disease.

The Lyme Disease Initiative creates a Lyme Disease Task Force to provide Americans with the opportunity to hold our public health officials accountable as they accomplish these tasks.

The legislation is the product of countless meetings that Senator Dodd and I have had with patients and families struggling to cope with this debilitating disease. Although Lyme disease can be treated in the early stages with antibiotics, sadly, the lack of physician knowledge about Lyme disease and the inadequacies of existing laboratory detection tests compound the physical suffering, which can include damage to the nervous system, skin, and joints and other significant health complications where patients go undetected, and hence untreated. Patients report heart breaking stories about visiting multiple doctors without getting an accurate diagnosis, undergoing unnecessary tests while getting progressively weaker and sicker—and racking massive medical bills in the process.

Although Lyme disease poses many challenges, it is one of the challenges the medical research community is well equipped to meet. This legislation will enhance efforts to discover new information on and establish treatment protocols for Lyme disease. Thanks to the scientific research being conducted here in the United States and around the world, new and promising research is already accumulating at a rapid pace. We have a unique opportunity to help re-build the shattered lives of Lyme victims and their families, and I look forward to working with Senator Dodd, my colleagues, and the administration to accomplish this worthy public health goal.

Mr. President, I rise today to join Senator Santorum in introducing The Lyme Disease Initiative of 1999, companion legislation to a bill introduced by Representative Christopher Smith of New Jersey. The objective of this bill is simple—to put us on the path toward eradicating Lyme disease—a disease that is still unfamiliar to some Americans, but one that those of us from Connecticut and the Northeast know all too well.

Last Congress I was pleased to introduce similar legislation, The Lyme Disease Initiative of 1998, and to see a critical component of that legislation enacted into law. Through an amendment offered in the FY 1999 Department of Defense (DoD) appropriations bill, an additional $3 million was directed toward the DoD's Lyme disease research efforts. This was an important step in the fight to increase our understanding of the condition, but clearly much more remains to be done.

Almost every resident of my state has witnessed firsthand the devastating impact that this disease can have on its victims. As most of my constituents know, Lyme disease is a "home-grown" illness—it first achieved prominence in the 1980s in the state of Connecticut and got its name from the town of Lyme, CT. Connecticut residents have the dubious distinction of being 10 times more likely to contract Lyme disease than the rest of the nation.

To begin to address this crisis, this legislation would establish a five-year, $125 million blueprint for attacking the disease on all fronts by bolstering funding for better detection, prevention, surveillance, and public and physician education. Additionally, this legislation would require federal agencies involved in Lyme disease research and education to substantially improve the coordination of their efforts, in an effort to minimize duplication and to enhance federal leadership.

In my opinion, money to fund Lyme disease research and public education is money well spent. Studies indicate that long-term treatment of infected individuals often exceeds $100,000 per person—a phenomenon I call the "Lyme disease check's.

Health problems experienced by those infected can include facial paralysis, joint swelling, loss of coordination, irregular heart-beat, liver malfunction, depression, and memory loss. Because Lyme disease is a long-term illness, patients often must visit multiple doctors before a proper diagnosis is made. This results in prolonged pain and suffering, unnecessary tests, costly and futile treatments, and devastating emotional consequences for victims and their families.

Tragically, the number of Lyme disease cases reported to the CDC has sky-
rocked—from 500 in 1982 to 17,000 in 1998. In the last year alone, the number of infected individuals rose 25%. And these cases represent only the tip of the iceberg. Several new reports have found that the actual incidence of the disease is times greater than current figures suggest.

While continuing to fight for additional funding for research into this disease, it is also critical that we ensure that current and future federal resources for Lyme disease are used wisely and in the interest of individuals and families affected by this condition. To that end, I intend to ask the General Accounting Office to review current federal funding priorities for Lyme disease.

I truly look forward to the day when Lyme disease no longer plagues our nation and view The Lyme Disease Initiative of 1999 as a critical step toward that goal. I urge my colleagues to support this legislation.

By Mr. BINGAMAN (for himself, Mr. ALLARD, and Mr. CRAIG):

S. 104±307 to extend the expiration date of the act certain aircraft required for use in wildfire suppression, and for other purposes; to the Committee on Armed Services.

WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996 EXTENSION LEGISLATION

Mr. President, this legislation is critical to the protection of lives and structures from rapidly advancing fires. They are used in the initial attack of wildfires in support of firefighters on the ground and, on larger wildfires, to aid in the protection of lives and structures from rapidly advancing fires.

Today, Senators ALLARD, CRAIG and I are introducing legislation that will help ensure that Federal firefighters continue to have access to air tanker services. This technical amendment will extend the expiration date of the Wildfire Suppression Aircraft Transfer Act of 1996 from September 30, 2000 to September 30, 2005. The regulations under the act are still being finalized, so no aircraft have yet been transferred. Extending the 1996 act is critical to help facilitate the sale of former military aircraft to contractors who provide firefighting services to the Forest Service and the Department of the Interior. The existing fleet of available air tankers is aging rapidly, and fleet modernization is critical to the continued success of the firefighting program.

This bill will extend legislative authority to transfer or sell excess turboprop and jet aircraft, not required for conversion to air tankers. If we fail to pass this extension, air tanker operators will not have access to the planes they need to update the aging air tanker fleet. The Wildfire Suppression Aircraft Transfer Act of 1996 required that the aircraft be used only for firefighting activities.

I urge my colleagues to support our efforts to ensure that Federal firefighters have the resources they need to protect the public and their property from the threat of wildfires.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 104±307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (5)

SECTION 1. TECHNICAL AMENDMENTS. Section 2 of the Wildlife Suppression Aircraft Transfer Act of 1996 (Public Law No. 104-307) is amended—

(1) in subsection (a)(1) by striking "September 30, 2000" and inserting "September 30, 2005";

(2) in subsection (d)(2)(C), by striking "and" at the end;

(3) by striking "and" at the end and inserting "; and";

(4) in subsection (d)(2), by adding at the end the following:

"(F) be in effect until September 30, 2005;" and

(5) in subsection (f), by striking "March 31, 2000" and inserting "March 31, 2005".

By Mr. DODD (for himself and Mr. KENNEDY) (by request):

S. 104±307 to extend the expiration date of the act certain aircraft required for use in wildfire suppression, and for other purposes; to the Committee on Armed Services.

ENDING DISCRIMINATION AGAINST PARENTS ACT OF 1999

Mr. DODD. Mr. President, I rise today to introduce the Ending Discrimination Against Parents Act of 1999, to prohibit employment discrimination against parents and those with parental responsibilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

This legislation was in effect until September 30, 2005; and "September 30, 2005".

By Mr. DODD (for himself and Mr. KENNEDY) (by request):

S. 104±307 to extend the expiration date of the act certain aircraft required for use in wildfire suppression, and for other purposes; to the Committee on Armed Services.

ENDING DISCRIMINATION AGAINST PARENTS ACT OF 1999

Mr. DODD. Mr. President, I rise today to introduce the Ending Discrimination Against Parents Act of 1999, to prohibit employment discrimination against private and public employees because they are parents. I am pleased to be joined by Senator KENNEDY in this effort.

Mr. President, today more than ever we are working parents. One may argue whether it is right or wrong—but the facts are clear. In 1998, 38 percent of all U.S. workers had children under the age of 18. Nearly one in five working parents is a single parent; moreover, a fifth of these are single fathers. Labor force participation has also increased in two parent families, with both parents often holding down jobs.

Clearly, this has revolutionized our culture. Child care is a constant pressing issue; as public policy issue. Grocery stores and other retailers are open later—many catalogues offer round the clock service via the telephone or Internet. Take out meals and delivered pizza, which in the past were often reserved as a special weekend treat, are now commonplace on week nights. Cellular telephone companies even offer special family plans with unlimited calling among family members, for those families entirely on the go.

Working parents are often reserved as a special weekend treat. There being 24×7, hours have changed. Women in men's work side by side in nearly every occupation. Many employers attract workers with on-site day care, flexible work arrangements and generous family leave. Take Your Daughter to work day has introduced millions of girls and boys to the world of work.

But not all change has come easy. Many parents have made agonizing choices about work and family. Some have chosen to scale back their careers, move to less demanding jobs, pursue part-time work, or take a few years off. Others have continued in their careers without interruption relying on commitments of friends or the support of a partner. Each working parent has come to their own decision about how to move forward in their jobs and in their role as parents. And most employers are supportive of these decisions. They recognize that good employees are good employees regardless of their status as parents.

Mr. President, this legislation is not about these employers. Frankly, it is not even about encouraging, much less requiring, work place accommodations of parents and their family obligations—as much as I support those efforts. It is, instead, about those hopefully rare cases where employers discriminate in their employment practices against parents. It is about eliminating bias not about guaranteeing accommodation.

Specifically, the proposed statute would include parental status as a protected class with respect to employment practices. Parental status would cover parents of children under 18 years of age and children who remain under parental supervision because of a mental or physical disability, as well as those seeking legal custody of children and those who stand "in loco parentis." The legislation would bar discrimination against parents in all aspects of employment, including recruitment, referral, hiring, promotions, discharge, training and other terms and conditions of employment.

For example, this legislation would make illegal policies against hiring single parents. Employers would be prohibited from taking a mother or a father off a career-advancing path out of a belief that parents uniformly cannot meet the requirements of these jobs. Neither could employers hire less qualified non-parents over parents because of unfounded concerns about parents. Basic discrimination against parents would be barred.

I want to be very clear, Mr. President, this legislation does not release working parents from any job performance requirements. Employers are free to make decisions based on an employee's job performance or ability to meet job requirements or qualifications—no matter what that employee's parental status is. Thus, an employer may discipline an employee who is late because of childcare issues. Similarly, an employer may reject an applicant for a job that requires extensive travel if that applicant is unwilling to travel because of his or her parental responsibilities. What the bill would prohibit...
is rejection of an applicant who is willing to travel based simply on the assumption that he or she, as a parent, will be unable to fulfill that commitment.

Mr. President, this is unfortunately not a new problem for parents. Several states, including Alaska, Nebraska, New Hampshire, New Jersey, and South Dakota, and the District of Columbia have enacted laws that prohibit discrimination based on parental or familial status. There have also been several federal cases filed under gender discrimination statutes that have found discrimination based on parental status. In one case, an employer transferred an employee recently back to work from maternity leave into a lower paying job, not based on her request or her performance, but because the employer simply felt it better suited a new mother. Beyond anecdotes and a few court cases, it is difficult to gauge the extent of this problem—rare or common—given the extremely limited avenues of redress open to parents currently.

But the matter how rare—if it happens just once it is wrong. And working parents deserve better. This legislation makes sure they get it. I urge my colleagues to join me in support of this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the Record. There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1907

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 “Ending Discrimination Against Parents Act of 1999.”

SEC. 2. FINDINGS.

(a) In 1988, thirty-eight percent of all United States workers had children under 18 years of age.

(b) The vast majority of Americans with children under 18 are employed.

(c) The majority of working parents face workplace discrimination.

(d) The vast majority of Americans with children under 18 are employed.

(e) The vast majority of parents rely on the wages of working parents to make ends meet;

(f) Prevents the best use of available labor resources;

(g) Has been spread and perpetuated, through commerce and the channels of instrumentalities of commerce, among the workers of several States;

(h) Burdens commerce and the free flow of goods in commerce;

(i) Constitutes an unfair method of competition in commerce; and

(j) Leads to labor disputes burdening an obstructing commerce and the free flow of goods in commerce.

(k) Elimination of such discrimination would have positive effects, including

(I) Solving problems in the economy created by unfair discrimination against parents;

(II) Promoting stable families by enabling working parents to work free from discrimination against parents; and

(III) Remedying the effects of past discrimination against parents.

SECTION 3. PURPOSES.

The purposes of this Act are—

(a) To prohibit employers, employment agencies, and labor organizations from discriminating against parents with parental responsibilities based on the assumption that they cannot satisfy the requirements of a particular position; and

(b) To provide meaningful and effective remedies for employment discrimination against parents and persons with parental responsibilities.

SECTION 4. DEFINITIONS.

In this Act:

(a) “Commission” means the Equal Employment Opportunity Commission.

(b) “Complaining party” means the Commission, the Attorney General, or any other person who is or has been an action or proceeding under this Act.

(c) “Covered entity” means an employer, employment agency, labor organization, or joint labor-management committee.

(d) “Demonstrates” means meet the burden of production and persuasion.

(1) The term “employee” means—

(i) An individual to whom section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) applies;

(ii) An individual to whom section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies;


(iv) A covered employee as defined in section 411(c)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(3)); and

(v) A covered employee as defined in section 411(c)(2) of title 3, United States Code.

(2) The term “employer” means—

(i) A person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h))) who has fifteen or more employees (as defined in section 701(f) of such Act (42 U.S.C. 2000e(f))) for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person;

(ii) An entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies; and


(b) “Demonstrates” means meet the burden of evidence of a labor organization.

(c) The term “employee” includes applicants for employment and former employees.

(1) The term “employee” means—

(i) An individual to whom section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) applies;

(ii) An individual to whom section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies;


(iv) A covered employee as defined in section 411(c)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(3)); and

(v) A covered employee as defined in section 411(c)(2) of title 3, United States Code.

(2) The term “employer” does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of title 26, United States Code.

(g) “Employment agency” has the meaning given that term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(h) “Incapable of self-care” means that the individual needs active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living.

(i) Activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, and similar activities.

(j) “Labor organization” has the meaning given that term in section 701(d) and (e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d), (e)).

(k) “Office of Compliance” has the meaning given that term in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

(l) “Person” means a person who, with regard to an individual, is under the age of 18, or is 18 or older but is incapable of self-care because of a physical or mental disability.

(1) Has the status of—

(i) A biological parent;

(ii) An adoptive parent;

(iii) A foster parent;

(iv) A stepparent; or

(v) A custodian of a legal ward;

(2) Actively seeking legal custody or adoption; and

(3) Stands in loco parentis to such an individual.

(m) “Physical or mental disability” means a mental or physical impairment that substantially limits one or more of the major life activities of an individual.

(n) “State” has the meaning given that term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

SEC. 5. DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) To fail or refuse to hire, or to discharge, any individual, or otherwise to discriminate against any individual with regard to the compensation, terms, conditions, or privileges of employment of the individual, because such individual is a parent; or

(2) To limit, segregate, or classify employees in any way that would deprive, or tend to deprive, any individual of any opportunities or otherwise adversely affect the status of the individual as an employee, because such individual is a parent.

(b) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer, for employment, or otherwise to discriminate against any individual because such individual is a parent.

(c) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) To exclude or expel from its membership, or to otherwise discriminate against, any individual because such individual is a parent;
(2) to limit, segregate, or classify its members or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tends to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status of the individual as an employee, because such individual is a parent; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this Act.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because such individual is a parent in admission to, or employment in, any program established to provide apprenticeship or other training.

SEC. 6. RETALIATION AND COERCION PROHIBITED.

(a) Retaliation.—A covered entity shall not discriminate against an employee because the employee opposed or requested an act or practice prohibited by this Act or because the employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—A covered entity shall not coerce, intimidate, interfere with, or threaten to coerce, intimidate, or threaten an employee in the exercise or enjoyment of, or on account of the employee's having exercised or enjoyed, or on account of the employee's having assisted, participated in, or held evidence related to any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

SEC. 7. OTHER PROHIBITIONS.

(a) COLLECTIVE BARGAINING.—Notwithstanding any other provision of this Act, the Commission shall not collect statistics from covered entities on their employment of parents, or compel the collection of such statistics by covered entities, unless such statistics are to be used in investigation, litigation, or resolution of a claim of discrimination under this Act.

(b) QUOTAS.—A covered entity shall not adopt or implement a quota with respect to its employment of parents.

SEC. 8. MIXED MOTIVE DISCRIMINATION.

(a) A covered entity's employment practice is established under this Act when the complaining party demonstrates that—

(1) the individual's status as a parent; or

(2) retaliation; coercion, or threats against, intimidation of, or interference with an individual as described in section 6 of this Act

was a motivating factor for any employment practice, even though other factors also motivated the practice.

(b) When an individual proves a violation under this Act, the respondent demonstrates that the respondent would have taken the same action in the absence of the prohibited motivating factor, a court or any other entity authorized to interpret or apply this Act may grant declaratory relief, injunctive relief (except as provided in clause (2) below), and monetary damages and costs determined to be directly attributable only to the pursuit of a claim under this section; and

(c) Any damages awarded shall not be an order requiring any admission, reinstatement, hiring, promotion, or payment.

SEC. 9. DISPARATE IMPACT.

Notwithstanding any other provision of this Act, a covered entity's employment practice has a disparate impact on parents, as the term “dis disparate impact” is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), shall not establish a violation of this Act.

SEC. 10. DEFENSES WHERE ACTIONS TAKEN IN A DETERMINATION AND APPLICATION OF THIS ACT.

(a) It shall not be unlawful under this Act for a covered entity to take any action otherwise prohibited under this Act with respect to any person if such action is taken in a determination and application of this Act engaged in by such covered entity.

(b) This Act shall not apply with respect to the foreign operations of a corporation that is a foreign person not controlled by an American covered entity.

(c) For purposes of this subsection, the determination of whether a covered entity controls a corporation shall be based on the factors set forth in section 702(c)(3) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1(c)(3)).

(d) This Act shall not apply to a covered entity with respect to the employment of aliens outside any State.

SEC. 11. ENFORCEMENT AND REMEDIES.

(a) INCORPORATION OF POWERS, REMEDIES, AND PROCEDURES IN OTHER CIVIL RIGHTS STATUTES.—With respect to the administration of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 11(b), establish the powers, remedies, procedures, and jurisdiction that this Act provides to the Equal Employment Opportunity Commission and the Attorney General, the Librarian of Congress, the Office of Compliance and its Board of Directors, the Merit Systems Protection Board, the President, the courts of the United States, and/or any other person alleging a violation of any provision of this Act—

(1) for individuals who are covered under title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.), sections 702, 706, 707, 709, 711, and 717 of that Act (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–11); and sections 712, 717, 710, 712, and 7703 of title 5, United States Code, as applicable,

(2) for individuals who are covered under section 302(a) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)), sections 302(b)(1) and 304(b)(e) of that Act (2 U.S.C. 1202(b)(1), 1204(b)(e));

(3) for individuals who are covered under title 103 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(1)), sections 203(b)(1), 225, and 401–416 of that Act (2 U.S.C. 1301(b)(1), 1303, 1401–1416); and

(4) for individuals who are covered under section 411(c)(1) of title 3, United States Code, sections 411(b)(1), 435, and 451–456 of that title:

(b) ADDITIONAL REMEDIES.—

(1) Notwithstanding express or implied limitation on the remedies incorporated by reference in subsection 11(a), and except as provided in subsection (b)(1) of this section, or section 9, or section 12 of this Act, any covered entity that violates this Act shall be liable for such compensatory damages as may be appropriate and for punitive damages if the complaining party demonstrates that the corporation's discrimination or practice or practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

(2) Notice or reference in section 3(b)(1)(i) of

(i) absent consent to a monetary remedy, a State may be liable for monetary re-
Mr. DODD. Mr. President, I rise today to offer legislation, "the Student Privacy Protection Act," to provide parents and their children with modest, but appropriate, privacy protection from questionable marketing research in the schools.

There are few images as enduring as those we experienced as school-children: the teachers and chalkboards, the principal’s office, children at play during recess, school libraries, and desks organized around a room. All define a school in our memories and continue to define schools today. Clearly, there have been changes and many of those for the good. Computers have become more common and are now in a majority of classrooms. Students with disabilities are routinely included in regular classes rather than segregated in separate classrooms or schools.

However, some changes in my view have not been for the best. More and more schools and their classrooms are becoming commercialized. School teachers and their students are daily barraged with commercial messages aimed at influencing the buying habits of children and their parents. A 1997 study from the ASMM, estimated that children aged 4-12 years, spent more than $24 billion themselves and influenced their parents to spend $187 billion. Marketing to children and youth is particularly powerful however, because students are not just current consumers, they will be consumers for decades to come. And just as we hope that what students learn in schools stays with them, marketers know their messages stick—be it drinking Coke or Pepsi, or wearing Nikes or Reeboks, these habits continue into adulthood.

There is no question that advertising is everywhere in our society from billboards to bathroom stalls. But what is amazing is how prevalent it has become in our schools. Companies no longer just finance the local school’s scoreboard or sponsor a little league team, major national companies advertise in school hallways, in classrooms, on the fields and, even, in curriculum which they have developed specifically to get the messages directly into children. One major spaghetti sauce firm has encouraged science teachers to have their student test different sauces for thickness as part of their science classes. Other businesses have become well-known for their scholarship support of promising students. And one cannot imagine a successful, relevant vocational education program without the participation of business.

The legislation I offer today does not seem guess these hard decisions. This bill, which is a companion to legislation introduced in the other body by Senator George Miller, would prohibit schools from letting students test different sauces for thickness as part of their science classes. Other businesses have become well-known for their scholarship support of promising students. And one cannot imagine a successful, relevant vocational education program without the participation of business.

Each of these activities makes the central test of contributing to student learning. Unfortunately, too much commercial activity in our schools does not. These issues are not black and white. Channel One which is in many, many of our nation’s secondary schools offers high quality programming on the news of the day and issues of importance. They provide televisions, VCR’s, and satellite dishes along with live and educational programming. But Channel One is a business; in exchange for all that is good comes advertising.

Teachers, principals and parents are on the front lines of this issue; each day decisions are made in school hallways, in classrooms, and what stays out of classrooms. In my view, too often these decisions are made in the face of very limited resources. I believe most educators recognize the potential down-sides of exposure to commercial messages—but too often they have no choice. They are faced with two poor choices: provide computers, current events or other activities with corporate advertising or not at all.

The legislation I offer today does not second guess these hard decisions. This bill, which is a companion to legislation introduced in the other body by Senator George Miller, would prohibit schools from letting students test different sauces for thickness as part of their science classes. Other businesses have become well-known for their scholarship support of promising students. And one cannot imagine a successful, relevant vocational education program without the participation of business.

This is, I believe, a modest proposal that deals with one of the most disturbing commercial trends in our schools. Existing school privacy laws protect official records and educational research. Current law leaves a loophole for companies to go into classroom and directly find children—for research without their parents’ written permission. This bill would also provide for a study of the extent and effect of commercialism in our schools.

This is not some scenario from a science fiction novel. Elementary school students in New Jersey filled out a 27-page booklet called "My All About Me Journal" as part of a marketing survey for a cable television channel. A technology firm provides schools with free computers and Internet access, but monitors students’ web activity by age, gender, and ZIP code. Children in a Massachusetts school did a cereal taste test and answered an opinion poll. This legislation does not presume that these activities are bad or unrelated to learning—it simply requires parents’ written permission before the children participate.

Mr. President, public education is not a new topic for discussion here on the Senate floor. But we rarely think about the actual words we use—"public education"—and what they mean. To the public schools themselves, to the students who go there, all schools serve as a whole: schools that serve all children, schools that are the central element in their communities, and that are financed by all of us through our taxes—local, state and federal. This bill helps ensure that they remain true to their name.

I ask unanimous consent that a copy of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I. SHORT TITLE

This Act may be cited as the “Student Privacy Protection Act”.

SEC. 2. PRIVACY FOR STUDENTS.

Part E of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 1228 et seq.) is amended by adding at the end the following:

"SEC. 14515. PRIVACY FOR STUDENTS.

(a) IN GENERAL.ŠNone of the funds authorized under this Act may be used by an applicable program to allow a third party to monitor, receive, gather, or obtain information intended for commercial purposes from any student under 18 years of age without prior, written, informed consent of the parent of the student.

(b) INTENTION OF THIRD PARTY.ŠBefore a school, local educational agency, or State, as the case may be, enters into a contract with a third party to monitor, receive, gather, or obtain information intended for commercial purposes from any student under 18 years of age without prior, written, informed consent of the parent of the student,

(i) inquiry whether the third party intends to gather, collect, or store information on students, the nature of the information to be gathered, how the information will be used, whether the information will be sold, distributed, or transferred to other parties and the amount of class time, if any, that will be consumed by such activity.

(c) CONSENT FORM.ŠAny consent form referred to in subsection (a) shall indicate the dollar amount and nature of the contract between a school, local educational agency, or State, as the case may be, and a third party, including the nature of the information to be gathered, how the information will be used, whether the information will be sold, distributed, or transferred to other parties, and the amount of class time, if any, that will be consumed by such activity.

SEC. 3. GAO STUDY.

(a) IN GENERAL.ŠThe Comptroller General of the United States shall conduct a study in accordance with subsection (b) regarding the prevalence and effect of commercialism in elementary and secondary education.

(b) CONTENTS.ŠThe study shall—

(1) document the nature, extent, demographics, and trends of commercialism (commercial advertising, certain editorial advertising, special sections, programs and activities, exclusive agreements, incentive programs, appropriation of space,
sponsored educational materials, electronic marketing, market research, and privatization of management) in elementary and secondary schools receiving funds under the Elementary and Secondary Education Act of 1965.

(2) consider the range of benefits and costs, educational, public health, financial, and social, of any commercial arrangements in classrooms; and

(3) consider how commercial arrangements in schools affect student privacy, particularly in regards to new technologies such as the Internet, including the type of information that is collected on students, how it is used, and the manner in which schools inform parents before information is collected.

By Mr. TORRICELLI:

S. 1909. A bill to provide for the preparation of a Governmental report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgment of such injustices by the President; to the Committee on the Judiciary.

WARTIME VIOLATION OF ITALIAN AMERICAN CIVIL LIBERTIES ACT

Mr. TORRICELLI. Mr. President, I rise today to introduce a bill that is important not only to every American of Italian descent, but to any American citizen who values our Constitutional freedoms. This bill would demand restitution to the plights of Italian Americans during World War II. Their story has received little attention until now, and I am pleased to be able to heighten public awareness about the injustices they faced.

Hours after the Japanese bombed Pearl Harbor on December 7, 1941, the Federal Bureau of Investigation arrested 250 Italian Americans and shipped them to internment camps in Montana and Ellis Island. These men had done nothing wrong. Their only crime was their Italian heritage and the suspicion that they could be dangerous during war time. By 1942, all Italian immigrants, approximately 600,000 people, were labeled as "unfriendly aliens" and given photo IDs which they had to carry at all times. They could travel no further than five miles from their homes and were required to turn in all cameras, flashlights and weapons.

These violations did not discriminate against class or social status. In San Francisco, Joe DiMaggio's parents were forbidden to go further than five miles from their home without a permit. Enrico Fermi, a leading Italian physicist who was instrumental in America's development of the atomic bomb, could not travel freely along the East Coast. Yet, while these activities persisted in the United States, Italian Americans comprised the largest ethnic group in the Armed Forces. During the war, Italian Americans fought valiantly to defend the freedoms that their loved ones were being denied at home.

The stories we know about and the facts which have come to light. Yet more than fifty years after the end of World War II, the American people still do not know the details of the Italian American internment, and the American government has yet to acknowledge that these events ever took place. Through this legislation, the Administration will be required to report on the extent to which civil liberties were violated, and if the Justice Department would conduct a comprehensive review of the Italian American internment, and report its findings, including the name of every person taken into custody, interned, or arrested. The specific injustices they suffered in camps will be detailed in the bill. Moreover, federal agencies, from the Department of Education to the National Endowment for the Humanities, would be encouraged to support projects like "Una Storia Segreta" that draw attention to this episode of American history.

The United States has rightfully admitted its error in interning Japanese Americans. However, Americans of Italian descent suffered equal hardships and this recognition has been denied to them. I look forward to working with my colleagues to secure passage of this legislation so that the United States government will begin to release the facts about this era. Only then can Italian Americans begin to come to terms with the treatment they received during World War II.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record. Where there be no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1909

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 "Wartime Violation of Italian American Civil Liberties Act".

SEC. 2. FINDINGS. The Congress makes the following findings:

(1) The freedom of more than 600,000 Italian Americans living in the United States and their families was restricted during World War II by Government measures that branded them "enemy aliens" and included carrying identification cards, travel restrictions, and seizure of personal property.

(2) During World War II more than 10,000 Italian Americans living on the West Coast were forced to leave their homes and prohibited from entering coastal zones. More than 50,000 were subjected to curfews.

(3) During World War II thousands of Italian American immigrants were arrested, and hundreds were interned in military camps.

(4) Hundreds of thousands of Italian Americans performed exemplary service and thousands sacrificed their lives in defense of the United States.

(5) At the time, Italians were the largest immigrant group in the United States, and today are the fifth largest immigrant group in the United States, numbering approximately 15,000,000.

(6) The impact of the wartime experience was devastating to Italian American communities in the United States, and its effects are still being felt.

(7) A deliberate policy kept these measures public, and it has never been acknowledged in any official capacity by the United States Government.

SEC. 3. REPORT. The Inspector General of the Department of Justice shall conduct a comprehensive review of the treatment of the United States government of Italian Americans during World War II, and not later than 1 year after the date of enactment of this Act shall submit to the Congress a report that documents the findings of such review. The report shall cover the period between September 1, 1939, and December 31, 1945, and shall include the following:

(1) The names of all Italian Americans who were taken into custody in the initial round-up following the attack on Pearl Harbor, and prior to the United States declaration of war against Italy.

(2) The names of all Italian Americans who were interned.

(3) The names of all Italian Americans who were interned and the location where they were interned.

(4) The names of all Italian Americans who were ordered to move out of designated areas under the United States Army's "Individual Exclusion Program".

(5) The names of all Italian Americans who were arrested for curfew, contraband, or other violations under the authority of Executive Order 9066.

(6) Documentation of Federal Bureau of Investigation raids on the homes of Italian Americans.

(7) A list of ports from which Italian American fishermen were restricted.

(8) The names of Italian American fishermen who were prevented from fishing in prohibited zones and therefore unable to pursue their livelihoods.

(9) The names of Italian Americans whose boats were confiscated.

(10) The names of Italian American railroad workers who were prevented from working in prohibited zones.

(11) A list of all civil liberties infringements suffered by Italian Americans during World War II, as a result of Executive Order 9066, including internment, hearings without benefit of counsel, illegal searches and seizures, travel restrictions, enemy alien registration requirements, employment restrictions, confiscation of property, and forced evacuation from homes.

(12) An explanation of why some Italian Americans were subjected to civil liberties infringements, as a result of Executive Order 9066, while other Italian Americans were not.

(13) A review of the wartime restrictions on Italian Americans to determine how civil liberties can be better protected during national emergencies.

SEC. 4. SENSE OF THE CONGRESS. It is the sense of the Congress that—

(1) the story of the treatment of Italian Americans during World War II needs to be told in order to acknowledge that these events happened, to remember those whose lives were unjustly disrupted and whose freedoms were violated, to help repair the damage to the Italian American community, and to discourage the occurrence of similar injustices and violations of civil liberties in the future;

(2) Federal agencies, including the Department of Education and the National Endowment for the Humanities, should support projects such as—

(A) conferences, seminars, and lectures to heighten awareness of this unfortunate chapter in our Nation's history;

(B) the refurbishment and payment of all expenses associated with the traveling exhibit "Una Storia Segreta," exhibited at
By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 1910. A bill to amend the Act establishing Women's Rights National Historical Park, to permit the Secretary of the Interior to acquire title to the Hunt House in Seneca Falls, New York, and for other purposes. [Sections 150 through 160 of Public Law 97-607 (94 Stat. 3547; 16 U.S.C. 410ll) are amended—

1. in the first sentence—
(a) by inserting a period after “park”; and
(b) by striking the remainder of the sentence;
2. by striking the last sentence.

TECHNICAL CORRECTIONS.—Section 1601(c) of Public Law 97-607 (94 Stat. 3547; 16 U.S.C. 410ll) is amended by striking “Williams” and inserting “Main”.

By Mr. BREAUX (for himself, Ms. SNOWE, Mr. HOLLINGS, Mr. SHELBY, Mr. KERRY, Mr. SESSIONS, and Ms. LANDRIEU):

S. 1911. A bill to conserve Atlantic highly migratory species of fish, and for other purposes. [Sections 1 through 15 of Public Law 105-314 (112 Stat. 3695) are amended by:

(A) by striking the remainder of the section; and
(B) by striking the remainder of the section.

ATLANTIC HIGHLY MIGRATORY SPECIES ACT

Mr. BREAUX. Mr. President, I rise today to send to the desk a bill that is called the Atlantic Highly Migratory Species Act of 1999. The legislation is sponsored by Senators SNOWE, HOLLINGS, SHELBY, KERRY, SESSIONS and LANDRIEU results from a far reaching conservation agreement among four major recreational and commercial fishing organizations. These organizations include the Billfish Foundation, the Coastal Conservation Association, the American Sportfishing Association and the Blue Water Fisherman’s Association.

The legislation will prohibit pelagic long line fishing for designated months each year in U.S. waters determined to be swordfish nursery and billfish bycatch areas based on extensive analyses of the best available science. Based upon the effectiveness of this type of management strategy in other U.S. fisheries, I am optimistic about the benefits that can come from the legislation.

Mr. President, the legislation has three major components that I would like to briefly outline.

First, the bill would prohibit pelagic longline fishing for certain months each year in U.S. waters where swordfish and billfish are present. Essentiall, more than 160,000 square nautical miles in the Atlantic Ocean and Gulf of Mexico would become a conservation area to rebuild populations of swordfish, sailfish, tuna, marlin and sharks.

Recognizing the economic impact on commercial fishermen, the legislation provides a fair and equitable program for longline vessel owners who are adversely impacted by the fishing prohibition. Funding of the permit buyback program would come through a partnership of the recreational and commercial fishing industries and federal funds.

The bill also directs the National Marine Fisheries Service to conduct a comprehensive research program in cooperation with the U.S. longline fleet to identify and test a variety of longline gear configurations to determine which are the most effective at reducing billfish bycatch in the Atlantic and Gulf of Mexico.

I believe that a true solution to the bycatch issue will require international cooperation. Ironically, next week the U.S. Commissioners to the International Commission for the Conservation of Atlantic Tunas (ICCAT) will be meeting in Brazil to consider many challenging issues, including a rebuilding plan for the north Atlantic stock of swordfish.

Under the bill we introduce today, we are taking a bold first step to address the problems in our own coastal waters. I am confident that this first step will serve as an example to the international community on focusing much needed attention to this important issue.

Mr. HOLLINGS. Mr. President, I rise today to join my colleague, Senator BREAUX, in introducing the Atlantic Highly Migratory Species Conservation Act of 1999. I am pleased to co-sponsor this legislative effort to promote conservation and bycatch reduction of small swordfish, billfish, and other highly migratory species.

The Atlantic Highly Migratory Species Conservation Act would create time-area closures for pelagic longline fishing along 160,000 miles of the Atlantic and the Gulf of Mexico coasts. These closures include the major spawning areas where a significant portion of juvenile swordfish and billfish bycatch mortality occurs.

I am particularly pleased to see that these closures encompass the coastal waters of my home state of South Carolina and the Gulf of Mexico. The Atlantic Highly Migratory Species Conservation Act of 1999 would create time-area closures for pelagic longline fishing areas for swordfish, billfish, and other highly migratory species.

The current proposal results from arduous work and negotiation among commercial and recreational fishing groups including the Coastal Conservation Association, American Sportfishing Association, the Billfish Foundation, and the Blue Water Fisherman’s Association. I commend these groups for their cooperation in developing this truly constructive conservation plan based on extensive analyses of the best available science. I also approve of their effort to make this bill consistent with the principles governing capacity reduction established in the Magnuson-Stevens Fishery Conservation and Management Act.

The introduction of the Atlantic Highly Migratory Species Conservation Act of 1999 couldn’t come at a better time. Many of the highly migratory...
prohibition. Funding of the permit are adversely impacted by the fishing also provide a fair and equitable pro-

Atlantic swordfish stock within 10 years is part of an effective national plan to reduce catches by all

The National Marine Fisheries Service reports that billfish and some sharkInt. 1999.

Atlantic swordfish stock within 10 yearsÐa goal achieved if we count discarded dead

Atlantic swordfish population to recover within ten years or lessÐa goal hoped that we can serve as a model for other nations. The National Marine Fisheries Service

closed large areas to fishing. ICCAT, the International Commission for the Conservation of Atlantic Tunas (ICCAT), that the U.S. em- braces use of time-area closures to help swordfish recover.

I believe that this legislation will serve as one prong of a twa-prong U.S. strategy in international negotiations on swordfish quotas that ensures the total mortality of swordfish, including discards, is limited to levels that will allow the stock to recover in 10 years. Further, working with Mr. Breaux and other cosponsors of the bill to ensure that this legislation is both consistent with the principles of the Magnuson-Stevens Act and part of an effective national plan to ensure recovery of the North Atlantic swordfish stock within 10 years.

By Mr. FRIST (for himself, Mr. MCCAIN, and Mr. BINGAMAN):

sponsors to ensure that this legislation will serve as another prong of a two-prong U.S. strategy in international negotiations on swordfish quotas that ensures the total mortality of swordfish, including discards, is limited to levels that will allow the stock to recover in 10 years. Further, working with Mr. Breaux and other cosponsors of the bill to ensure that this legislation is both consistent with the principles of the Magnuson-Stevens Act and part of an effective national plan to ensure recovery of the North Atlantic swordfish stock within 10 years.

The Electronic Commerce Technology Promotion Act

Mr. FRIST. Mr. President, I rise today to introduce the Electronic Commerce Technology Promotion Act. I am very pleased to be joined by Senators MCCAIN and BINGAMAN.

Small and medium-sized businesses have traditionally been the fastest growing segment of our economy, contributing more than 50 percent of the private sector output in the United States. Electronic commerce has the potential to enable these enterprises to enter the market with lower entry costs, yet extend their reach to a much larger market. The federal government has an inherent interest in helping them to maintain their global competitiveness.

It is in response to these needs that I introduce today the Electronic Commerce Technology Promotion Act. The legislation establishes a Center of Excellence for Electronic Commerce at the National Institute of Standards and Technology (NIST) as a centralized resource of information for federal agencies and small and medium-sized businesses in electronic commerce technologies and issues. My

species, including North Atlantic swordfish, are currently overfished. The National Marine Fisheries Service reports that billfish and some shark and tuna species are at all-time lows in abundance as a result of longline fishing. The best hope for rebuilding many of these species is the establishment of critical habitats, including closed areas, for international rules by commercial fishermen of other nations. The international management body for highly migratory species, the International Commission for the Conservation of Atlantic Tunas (ICCAT), recently expressed concern about the high catches and discards of small swordfish and emphasized that future gains in yield could accrue if fishing mortality on small fish could be reduced. Further, ICCAT encouraged member nations to consider alternative methods such as time/area closures to aid rebuilding of highly migratory stocks. I commend Senator Breaux for attempting to establish such areas domestically, and hope that we can serve as a model for other nations.

While this legislation can result in important conservation achievements, we must also employ other means to protect and rebuild our highly migratory species such as swordfish. Next week, nations will convene in Brasilia, Brazil to determine new international management measures for Atlantic swordfish. The United States must supplement Senator Breaux’s proposal by securing an agreement at ICCAT that will reduce catches by all member nations sufficient to allow the North Atlantic swordfish population to recover within ten years or less—a goal that scientists tell us can only be achieved if we count discarded dead swordfish against the catch quotas. In addition, I am certain that Senator Breaux’s effort to reduce bycatch and establish time-area closures will serve as a powerful example to the international community of a responsible method for sustaining and restoring highly migratory species.

I applaud my colleague and the other architects of this ambitious conservation effort and look forward to working with Senator Breaux and other cosponsors to ensure that this legislation is part of an effective national plan that ensures recovery of the North Atlantic swordfish stock within 10 years in a manner consistent with the goals of the Magnuson-Stevens Act.

By Mr. FRIST (for himself, Mr. MCCAIN, and Mr. BINGAMAN):

The Electronic Commerce Technology Promotion Act

Mr. FRIST. Mr. President, I rise today to introduce the Electronic Commerce Technology Promotion Act. I am very pleased to be joined by Senators MCCAIN and BINGAMAN.

Electronic commerce has fundamentally changed the way we do business, promising increased efficiency and improved quality at lower cost. It has been widely embraced by industry, both in the United States and abroad. This is evident in the growth of the electronic commerce market, which though almost non-existent just a few years ago, is expected to top a staggering $1 trillion by 2003, according to market research reports. The basis for the growth of electronic commerce is the potential that electronic transactions can be completed seamlessly and simultaneously, regardless of geographical boundaries. Inherent in this is the ability of different systems to communicate and exchange data, as opposed to the system “islands” that are left behind when transactions are processed in a non-automated fashion. The continued growth of global electronic commerce depends on a fundamental set of technical standards that enable essential technologies to interoperate, and on a policy and legal framework that supports the development that the market demands in a timely manner.

The United States is leading this global revolution and is vital to the continued growth of this market as well as widely promoting their use by small and medium-sized enterprises.

Usage of these technologies in the federal agencies enables us to share in the benefits of the electronic commerce revolution and participate more effectively as an active contributor in the private sector efforts to develop the frameworks and specifications necessary for systems and components to interoperate. This has the added advantage of allowing the government to intercede in a timely manner, either in failure conditions or to remove barriers erected by foreign governments. Furthermore, we would be strengthening our global leadership role, while at the same time establishing a model for other governments and enabling the growth of the global electronic commerce market.

Small and medium-sized businesses have traditionally been the fastest growing segment of our economy, contributing more than 50 percent of the private sector output in the United States. Electronic commerce has the potential to enable these enterprises to enter the market with lower entry costs, yet extend their reach to a much larger market. The federal government has an inherent interest in helping them to maintain their global competitiveness.
intention is not to create yet another program at NIST which will require substantial appropriations, but to create an office that focuses solely on electronic commerce by building upon existing expertise and resources. We have proposed to integrate the Bureau of Standards into the Manufacturing Extension Program (MEP) and the Small Business Administration to provide assistance to small and medium-sized enterprises on issues related to the deployment and use of electronic commerce technologies, including developing training modules and software toolkits.

The Center will also coordinate its activities with the Department of Commerce's Manufacturing Extension Program (MEP) and the Small Business Administration to provide assistance to small and medium-sized enterprises on issues related to the deployment and use of electronic commerce technologies, including developing training modules and software toolkits. In working jointly, the Center can build upon the existing MEP infrastructure to reach out to these businesses. It is important to note that my intention is not to modify the charter of the MEP program.

Mr. President, I believe that the growth of the electronic commerce market is vital to our economic growth. It is our responsibility to facilitate these trends as well as do our best to enable the market to sustain its current phenomenal growth rate. Therefore, I urge my colleagues to support timely passage of this legislation so that we can give our unambiguous support for the development of electronic commerce as a market-driven phenomenon, and signal our strong desire to promote and facilitate the growth of the electronic commerce market.

Mr. BINGAMAN. Mr. President, I am very pleased to join Senators FRIST and MCCAIN today in introducing the 'Electronic Commerce Technology Promotion Act.' This bill, which sets up a center of Excellence in Electronic Commerce as authorized by the National Institute of Standards and Technology, or NIST, is a solid step towards adapting an important federal agency to the digital economy we see blooming around us.

NIST was established in 1901 as the National Bureau of Standards during a time of tremendous industrial development, when technology became a key driver of our economic growth. Making those technologies literally fit together reliably through standards became a concern. Congress recognized that one key to sustaining our industrial growth and the quality of our products would be a federal laboratory devoted to developing standards. The Bureau of Standards is a classic example of how the federal government can support technological progress that undergirds economic growth and enables the competitive marketplace to work.

Around ten years ago, Congress modified the Bureau's charter in response to the problems of the 1980's, increasing its focus on competitiveness, adding efforts like the highly regarded Manufacturing Extension Program (MEP), and changing the name to NIST. Turning to the challenges of today's growing digital economy, this bill makes NIST a focal point in the federal government for promoting electronic commerce throughout our economy by establishing a center of Excellence in Electronic Commerce there. While the challenges of making things fit together in a digital economy are different—and now go under the un-melodious term "interoperability"—they will pose a crucial challenge to the industrial economy of 1901. And, NIST remains an excellent place to lead the work.

I'm particularly pleased that this bill includes the fundamental idea behind my bill S. 1494, the Electronic Commerce Extension Establishment Act of 1999. That is, NIST ought to lead an electronic commerce extension program or service to provide small businesses with low cost, impartial technical advice on how to enter and succeed in e-commerce. This service will help ensure that small businesses in every part of the nation fully participate in the unfolding e-commerce revolution through a well-proven policy tool—a service to the Department of Agriculture's Cooperative Extension Service and NIST's own MEP. I believe such a service would help both small businesses and our entire economy as the productivity enhancements from e-commerce are spread more rapidly, and I recently asked Secretary Daley for a report on how such a service should work. So, I thank Senator FRIST for including my basic policy idea in his bill and look forward to working with him to flesh it out, particularly in light of the report we should get from the Commerce Department.

Mr. President, I urge my colleagues to join Senators FRIST, MCCAIN, and myself in supporting this bill, as one step the Congress can take to make sure an important federal agency, NIST, continues its strong tradition of helping our economy—our growing digital economy—be the most competitive in the world.

By Mr. LOTT (for Mr. MCCAIN for himself and Mr. KYL):

S. 1913 A bill to amend the Act entitled "An act relating to the water rights of the Ak-Chin Indian Community" to clarify certain provisions concerning the leasing of such water rights, and for other purposes; to the Committee on Indian Affairs.

THE AK-CHIN WATER RIGHTS SETTLEMENT ACT AMENDMENTS OF 1999

Mr. McCAIN. Mr. President, I rise on behalf of myself and my colleague, Senator KYL, to offer legislation that will make an important clarification to the Ak-Chin Water Rights Settlement Act of 1984. Similar legislation has been introduced in the House by Representative Shadegg.

Let me explain why this legislation is necessary.

In 1992, Congress amended the Ak-Chin Water Rights Settlement Act to allow the Ak-Chin Indian Community to enter into leases of the Community's water for a term not to exceed 100 years. On December 15, 1994, the Ak-Chin Indian Community entered into an agreement with the Del Webb Corporation to lease a water supply for its development of a master-planned community in the Phoenix area.

However, since 1995, the State of Arizona, through its Department of Water Resources, has required certificates of assured water supply for 100 years for developments within the Phoenix Active Management Area. The 100-year assured water supply requirement is one of the key tenets of Arizona's water resource management. A certificate cannot be obtained unless a developer demonstrates that an efficient groundwater, surface water or adequate quality effluent will be continuously available to satisfy the proposed use of the development for at least 100 years.

Unfortunately, the lease as signed in 1996 has now matured for three years without the actual application to the Arizona Department of Water Resources for a certificate of assured water supply. The Arizona Department of Water Resources advised the company that it interprets its regulations to require Del Webb to demonstrate that water leased under the agreement with the Community will be available for a period of 100 years from the date each certificate issued. Under ADWR's interpretation, if Del Webb applies for a certificate of assured water supply on December 6, 1999, it must show that water will be available under the lease agreement until December 6, 2099. However, because Del Webb leased its option in 1996, the lease agreement between Del Webb and the Community will expire on December 6, 2096, and will not meet the State's test of continuing legal and physical availability of water supply. Moreover, the Community does not have statutory authority to grant leases with terms in excess of 100 years.

To resolve this unanticipated conflict, the affected parties have agreed that an act is required to modify the water rights of the Ak-Chin Indian Community to clarify certain provisions concerning the leasing of such water rights, and for other purposes; to the Committee on Indian Affairs.
supportive of this amendment. Therefore, it is our hope that we can move this legislation quickly. I ask to include a complete text of the legislation in the Record.

The bill follows:

Approved by [President], May 13, 1933

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,

SECTION 1. CONSTITUTIONAL AUTHORITY.

The Constitutional authority for this Act rests with Congress & it is authorized by Congress to "regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

SEC. 2. TECHNICAL AMENDMENTS TO AK-CHIN WATER USE ACT OF 1984.

(a) SHORT TITLE.—This section may be cited as the "Ak-Chin Water Use Amendments Act of 1999."

(b) AUTHORIZATION OF USE OF WATER.—Section 2(j) of the Act of October 19, 1984 (Public Law 98-530, 98 Stat. 2698) is amended to read as follows:

"(j)(1) The Ak-Chin Indian Community (hereafter in this subsection referred to as the 'Community') shall have the right to devote water supplies provided for by this Act to any use, including agricultural, municipal, industrial, commercial, mining, recreational, or other beneficial use, in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas and the Pima, Maricopa, and Pinal Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew leases, to extend the initial terms of leases, and to temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursu-...
Also, the tax incentive in the bill will encourage insurers to serve disaster-prone areas in a responsible manner by setting aside funds to pay for major losses.

The treatment of the fund by insurers would be closely regulated. Following is a general description of the provisions of the bill:

- Insurers would be able to set aside special tax-deferred reserves to cover potential catastrophic events.
- The maximum amount any insurer could set aside in a given year would be determined by reference to each insurance company’s exposure to the risk of catastrophic loss events.
- Deductible contributions to disaster protection funds would be voluntary, but would be irrevocable once made (except to the extent of “drawdowns” for actual catastrophic loss events, or drawdowns otherwise required by state insurance regulators). No company could use these funds to shelter income from taxation.
- The maximum allowable reserve for any given company would increase or decrease as they enter or exit lines of business that pose catastrophic risk.
- Insurers would only be allowed to drawdown the disaster reserves if the loss event in question is declared an emergency or disaster by certain recognized bodies or government officials (for example, a disaster declared by the President under the Stafford Act) and that loss exceeds a specified high level. The amounts distributed from the fund are added to company’s taxable income for the year in which the drawdown occurred.

Insurance companies would pay taxes on income generated when funds in the disaster reserve are invested. This income would be distributed out of the fund to the insurance company and taxed to the company on a current basis.

The maximum reserve (or “cap”) would be phased in at the rate of five percent per year over 20 years. Industry estimates indicate private reserves of $40 billion would be built up over this time.

Various concepts to address the problem of catastrophic losses have been proposed over the years. I look forward to hearing from experts from insurance companies, as well as local and state policy makers and insurance organizations. I believe this is a sensible approach and hope my colleagues will join me in this effort.

Mr. Jeffords (for himself, Mr. Crapo, Mr. Murkowski, Mr. Schumer, Mr. Harkin, Mr. Bryan, Mr. Burns, and Mr. Reid):

S. 14562. A bill to enhance the services provided by the Environmental Protection Agency to small communities that are attempting to comply with national, State, and local environmental regulations; to the Committee on Environment and Public Works.

Small Community Assistance Act of 1999

Mr. Jeffords. Mr. President, for years small communities across the United States have labored to meet environmental regulations written for major cities. They have struggled unilaterally with complicated regulations designed for Chicago or Los Angeles. Today I am introducing legislation designed to end this problem: the Small Community Assistance Act of 1999.

We live in small towns such as my home town of Shrewsbury, Vermont, proud of our community and our environment. We want to comply with reasonable health and environmental standards in order to leave a healthy legacy for our children. But we do not have the staff or financial capacity of larger communities to respond to far-reaching regulations. We are concerned about standards written without consideration for the special circumstances small towns in America face. While we recognize the importance of environmental regulations in safeguarding our air and water, we need the ability to respond intelligently to local priorities and needs.

We want to comply with environmental regulations, but we need some flexibility in order to comply in a reasonable manner. We do not want preferential treatment, we want treatment that recognizes our unique size and fiscal situation.

In 1991, I authored the Small Town Environmental Planning Act. This act passed overwhelmingly in the House and Senate and was signed into law by President Bush in 1992. This act mandated that the Environmental Protection Agency give more assistance to small towns.

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In 1992, this act mandated that the Environmental Protection Agency give more assistance to small towns. It created a task force comprised of representatives from small and large communities, leaders from the national, state, and local levels.

Small towns have been working already in cooperation with EPA's Small Community Advisory Sub-Committee to build on the valuable work already done by EPA's Small Community Task Force, which includes representatives from environmental agencies, and public interest groups from across the country.

Cherie Aiazzi of Carlin, a town of about 2800 people in northern Nevada, contributed a great deal to helping people in our small towns. I urge every one of my colleagues to co-sponsor this bill, to improve the quality of life and further environmental protections in our small communities nationwide.

Mr. Reid. Mr. President, I am pleased to join today with a geographically and politically diverse group of Senators to introduce the Small Community Assistance Act of 1999. I commend Senator Jeffords for investing his time and energy in developing this important legislation. This Small Community Assistance Act will help ensure that small towns across America are included in a combined local, state, and national effort to protect the environment.

This bill would help increase communication and cooperation between the U.S. Environmental Protection Agency and smaller communities. By establishing a Small Town Ombudsman Office in each of EPA’s regions, this bill will ensure that communities with less than 7500 residents have improved access to the technical expertise and information that are necessary for small towns to cost effectively protect the quality of their air and water and their citizens’ health.

It is now time to take their advice. The Small Community Assistance Act of 1999 will give much needed assistance to small towns and communities in Vermont and across the nation. This bill will give small communities more control over the regulations review process, clearer and simpler environmental guidelines, and more assistance in meeting environmental obligations.

This legislation acts on the recommendations of people from small communities throughout the United States. Small community members provided the impetus for this bill, helped write the bill itself, and provided numerous helpful comments. To these small community members I offer my sincere appreciation. I would especially like to thank the members of EPA's Small Community Advisory Sub-committee for all of their help, and I thank the committee for its unanimous endorsement of this bill.

I would like to thank the original co-sponsors of this bill, Senators Crapo, Murkowski, Schumer, Harkin, Bryan, Burns, and Reid. Their leadership on this bill underscores their dedication to helping people in our small towns. I urge every one of my colleagues to co-sponsor this bill.

This bill will give small communities more control over the regulations review process, clearer and simpler environmental guidelines, and more assistance in meeting environmental obligations.

This bill will improve the working relationship between small towns and EPA and ultimately strengthen environmental protection.
By coincidence of history and geography, Nevada is a state with more small towns than big cities. In our efforts to enhance the quality of life for all Nevadans, it is crucial that small communities play an important role in the development and achievement of our environmental goals. The Small Community Assistance Act of 1999 provides an valuable opportunity for small towns to contribute to and benefit from this important effort.

By Mr. FEINGOLD:

S. 197. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

THE FEDERAL DEATH PENALTY ABOLITION ACT OF 1999

--

Mr. FEINGOLD. Mr. President, I rise today to introduce the Federal Death Penalty Abolition Act of 1999. This bill will abolish the death penalty at the federal level. It will put an immediate halt to executions and forbid the imposition of the death penalty as a sentence for violations of federal law.

Since the beginning of this year, this Chamber has echoed with debate on violence in America. We’ve heard about violence in our schools and neighborhoods because the availability of guns to minors. Some say Hollywood has contributed to a culture of violence. Others argue that the roots of the problem are far deeper and more complex. Whatever the cause, a culture of violence has certainly infected our nation. As schoolhouse killings have shown, our children now can be reached by that culture of violence. And they aren’t just casual observers; some of them are active participants and many have been victims.

But, Mr. President, I’m not so sure that we in government don’t contribute to this casual attitude we sometimes see toward killing and death. With each new death penalty statute enacted and each execution carried out, our executive, judicial and legislative branches, at both the state and federal level, add to a culture of violence and killing. With each person executed, we’re teaching our children that the way to settle scores is through violence, even to the point of taking a human life.

At the same time, the public debate on the death penalty, which was an intense national debate not very long ago, is muted. As the online magazine Slate recently said, it’s because of the availability of guns to minors. Some say Hollywood has contributed to a culture of violence. Others argue that the roots of the problem are far deeper and more complex. Whatever the cause, a culture of violence has certainly infected our nation. As schoolhouse killings have shown, our children now can be reached by that culture of violence. And they aren’t just casual observers; some of them are active participants and many have been victims.

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Americans prefer life without parole around the country, shows that when<br>claim. Survey after survey, from<br>everybody assumes it's true. Mr. Presi-
dent, let me be clear. I believe capital<br>punishment is a deterrent, that<br>is, they are sadly, sadly mistaken. The<br>question is: should the death penalty<br>would have a higher murder rate than<br>the United States. Yet, they don't and<br>it's not even close. In fact, the murder<br>rate in the U.S. is six times higher<br>than the murder rate in Britain, seven<br>times higher than in France, five times<br>higher than in Australia, and five<br>times higher than in Sweden.<br>But we don't even need to look across<br>the Atlantic to see that capital punish-
ment has no deterrent effect on crime.<br>Let's compare Wisconsin and Texas.<br>I'm proud of the fact that my great<br>state, Wisconsin, was the first state in<br>this nation to abolish the death pena-
alty completely, when it did so in 1853.<br>Wisconsin has been death penalty-free<br>for nearly 150 years. In contrast, Texas is<br>the most prolific user of the death<br>penalty, having executed 192 people<br>since 1976. Let's look at the murder<br>rate in Wisconsin and Texas. During<br>the period 1995 to 1998, Texas has had a<br>murder rate that is nearly double the<br>murder rate in Wisconsin. This data<br>alone calls into question the argument<br>that the death penalty is a deterrent to<br>murder.

In fact, according to a 1995 Hart Re-
search poll, the majority of our na-
tion's police chiefs do not believe the<br>death penalty is a particularly effec-
tive law enforcement tool. When asked<br>to rank the various factors in reducing<br>crime, police chiefs ranked the death<br>penalty last. Rather, the police chiefs<br>the people who deal with hardened<br>criminals day in and day out—cite re-
ducing drug abuse as the primary fac-
tor in preventing crime, along with bet-
ter economy and jobs, simplifying<br>court rules, longer prison sentences,<br>more police officers, and reducing<br>guns. It looks like most police chiefs<br>recognize what our European allies and<br>a few states like Wisconsin have known<br>all along: the death penalty is not an<br>effective deterrent.<br>

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defendant might one day go free. The Supreme Court, however, upheld the lower court's imposition of the death penalty. And one more person will lose a life, when a simple correction of a misunderstanding could have resulted in a scientifically correct sentence of life without parole.

As legal scholar Ronald Dworkin recently observed, "[t]he Supreme Court has become impatient, and superdue process has turned into due process lite. Its impatience is understandable, but is also unacceptable." Mr. President, America's impatience with the protracted appeals of death row inmates is understandable. But this impatience is unacceptable. The rush to judgment is unacceptable. And the rush to execute men, women and children who might well be innocent is horrifying.

The discovery of the innocence of death row inmates and misguided Supreme Court decisions disabling exonerated defendants from challenging potentially dispositive exculpatory evidence, however, aren't the only reasons we need to abolish the death penalty. Another reason we need to abolish the death penalty is the continuing racism in our criminal justice system. Our nation is facing a crucial test. A test of our human rights records. And a test of our human rights records is to guard against the death penalty, especially in this century, to guard against the death penalty and to protect the right to life of every human being.

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The American Bar Association agrees. In 1997, the American Bar Association called for a moratorium on the death penalty because it found that the death penalty's earlier history raises far more questions of fairness and due process concerns. Several states are finally beginning to recognize the great injustice when the ultimate punishment is carried out in a biased and unfair way. Moratoriums have been considered by the legislatures of at least ten states over the last several months. The legislatures of Illinois and Nebraska have made the most progress. They actually passed moratorium measures earlier this year. In Alabama, Louisiana, some state and federal appellate courts are finally taking steps to correct the practice of legalized killing that was again unleashed by the Supreme Court's Gregg decision in 1976. The first post-Gregg execution took place in 1977 in Utah, when Gary Gilmore did not challenge and instead aggressively sought his execution by a firing squad. The first post-Gregg involuntary execution took place on May 25, 1979. I vividly remember that day. I had just finished the form of the rational punishment. I vividly remember that day. I had just finished the form of the rational punishment. I vividly remember that day. I had just finished the form of the rational punishment.
S. 1917

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 "Federal Death Penalty Abolition Act of 1999".

SEC. 2. REPEAL OF FEDERAL LAWS PROVIDING FOR THE DEATH PENALTY.

(a) HOMICIDE-RELATED OFFENSES.--

(1) TO THE SMUGGLING OF ALIENS.--Section 734(a)(1)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(B)(iv)) is amended by striking "by death or"

(2) DESTRUCTION OF AIRCRAFT, MOTOR VEHICLES, OR RELATED FACILITIES RESULTING IN DEATH.--Section 34 of title 18, United States Code, is amended by striking "to the death penalty or"

(3) MURDER COMMITTED DURING A DRUG-RELATED DRIVE-BY SHOOTING.--Section 36(b)(2)(A) of title 18, United States Code, is amended by striking "death or"

(4) MURDER COMMITTED AT AN AIRPORT SERVING INTERNATIONAL CIVIL AVIATION.--Section 37(a) of title 18, United States Code, is amended, in the matter following paragraph (2), by striking "punished by death or"

(b) ASSESSING OR KIDNAPPING RESULTING IN DEATH OF THE PRESIDENT OR VICE PRESIDENT.--Section 1751 of title 18, United States Code, is amended--

(A) in subsection (b)(2), by striking "death or"; and

(B) in subsection (d)(2), by striking "death or"

(c) OTHER OFFENSES.--

(1) MURDER COMMITTED DURING A DRUG-RELATED OFFENSES.--Section 1203(a) of title 18, United States Code, is amended--

(A) in subsection (a), by striking "by death or"

(B) in subsection (b), by striking "to the death penalty or"

(2) DESTRUCTION OF PROPERTY RELATED TO FOREIGN STATE PEREGRINATION OR NATIONAL IN ANOTHER COUNTRY.--Section 2332(a)(1) of title 18, United States Code, is amended--

(A) in subsection (a), by striking "by death or"

(B) in subsection (b)(1), by striking "to the death penalty or"

(3) MURDER COMMITTED DURING AN OFFENSE AGAINST MARITIME NAVIGATION.--Section 2280(a)(1) of title 18, United States Code, is amended by striking "by death or"

(4) MURDER COMMITTED DURING AN OFFENSE AGAINST A MARITIME FIXED PLATFORM.--Section 2280(a)(1) of title 18, United States Code, is amended by striking "by death or"

(5) CIVIL RIGHTS OFFENSES RESULTING IN DEATH.--Chapter 13 of title 18, United States Code, is amended--

(A) in section 241, by striking "'s, or may be sentenced to death'"; and

(B) in section 242, by striking "'s, or may be sentenced to death'";

(6) MURDER COMMITTED AT THE REQUEST OF A FOREIGN POWER.--Section 1118 of title 18, United States Code, is amended by striking--

(A) in subsection (a), by striking "by death or"; and

(B) in subsection (b)(1), by striking "death or"

(7) DEATH RESULTING FROM OFFENSES INVOLVING TRANSPORTATION OF EXPLOSIVES, DESTRUCTION OF GOVERNMENT PROPERTY, OR DESTRUCTION OF PROPERTY RELATED TO FOREIGN OR INTERSTATE COMMERCE.--Section 844 of title 18, United States Code, is amended--

(A) in subsection (d), by striking "or to the death penalty";

(B) in subsection (f)(3), by striking "subject to the death penalty, or";

(C) in subsection (i), by striking "or to the death penalty"; and

(D) in subsection (n), by striking "(other than the penalty of death)"

(8) MURDER COMMITTED BY USE OF A FIREARM DURING COMMISSION OF A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.--Section 924(j)(1) of title 18, United States Code, is amended by striking "by death or"

(9) GENOCIDE.--Section 1001(b)(3) of title 18, United States Code, is amended by striking "death or"

(10) FIRST DEGREE MURDER.--Section 1111(b) of title 18, United States Code, is amended by striking "by death or"

(11) MURDER BY A FEDERAL PRISONER.--Section 1118 of title 18, United States Code, is amended--

(A) in subsection (a), by striking "by death or";

(B) in subsection (b), in the third undesignated paragraph--

(i) by inserting "or" before "an indeterminate"; and

(ii) by striking ", or an unexecuted sentence of death".

(12) MURDER OF A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR OTHER PERSON AIDING IN A FEDERAL INVESTIGATION; MURDER OF A STATE CORRECTIONAL OFFICER.--Section 1121 of title 18, United States Code, is amended--

(A) in subsection (a), by striking "by death"

(B) in subsection (b)(1), by striking "or death"

(13) MURDER DURING A KIDNAPPING.--Section 1201(a) of title 18, United States Code, is amended by striking "death or"

(14) MURDER DURING A HOSTAGE-TAKING.--Section 1203(a) of title 18, United States Code, is amended by striking "death or"

(15) MURDER WITH THE INTENT OF PREVENTING TESTIMONY.--Section 1512 of title 18, United States Code, is amended--

(A) in subsection (a), by striking "sentence of death or";

(B) in subsection (b), by striking "or death"

(16) MAILING OF INJURIOUS ARTICLES WITH INTENT TO KILL OR RESULT IN DEATH.--Section 1716 of title 18, United States Code, is amended by striking "the death penalty or"

(17) MURDER COMMITTED DURING COMMISSION OF A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.--Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended--

(A) in each of subparagraphs (A) and (B) of subsection (a), by striking "by death or";

(B) in subsection (b)(1), by striking "or may be sentenced to death";

(C) in subsection (c), by striking "other than death," and all that follows before the period at the end and inserting "authorized by law";

(D) in subsection (d), by striking ", or", and all that follows before the period at the end and inserting the following: "[(i) [Reserved]]."

(E) in subsection (f), by striking "and" and inserting ", or";

(F) in subsection (g), by striking "and all that follows before the period at the end and inserting the following: "[(i) [Reserved]]."

(18) MURDER FOR HIRE.--Section 1958(a) of title 18, United States Code, is amended by striking "death or"

(19) MURDER INVOLVED IN A RACKETEERING OFFENSE.--Section 1961(a)(1) of title 18, United States Code, is amended by striking "death or"

(20) WILLFUL WRECKING OF A TRAIN RESULTING IN DEATH.--Section 1902(b) of title 18, United States Code, is amended by striking "to the death penalty or"

(21) BANK ROBBERY-RELATED MURDER OR KIDNAPPING.--Section 2113(e) of title 18, United States Code, is amended by striking "death or"

(22) MURDER RELATED TO A CARJACKING.--Section 2119(3) of title 18, United States Code, is amended by striking "or", or sentenced to death";

(23) MURDER RELATED TO AGGRAVATED CHILD SEXUAL ABUSE.--Section 2241(c) of title 18, United States Code, is amended by striking "unless the death penalty is imposed"

(24) MURDER RELATED TO SEXUAL EXPLOITATION OF CHILDREN.--Section 2251(d) of title 18, United States Code, is amended by striking "punished by death or";

(25) MURDER RELATED TO SEXUAL EXPLOITATION OF CHILDREN.--Section 2251(d) of title 18, United States Code, is amended by striking "punished by death or"

(26) SUBMURDER COMMITTED DURING AN OFFENSE AGAINST MARITIME NAVIGATION.--Section 2280(a)(1) of title 18, United States Code, is amended by striking "punished by death or"

(27) MURDER COMMITTED DURING AN OFFENSE AGAINST A MARITIME FIXED PLATFORM.--Section 2280(a)(1) of title 18, United States Code, is amended by striking "punished by death or"

(28) TERRORIST MURDER OF A UNITED STATES NATIONAL IN ANOTHER COUNTRY.--Section 2332a(a)(1) of title 18, United States Code, is amended by striking "punished by death or"

(29) MURDER BY THE USE OF A WEAPON OF MASS DESTRUCTION.--Section 2332a of title 18, United States Code, is amended--

(A) in subsection (a), by striking "punished by death or"; and

(B) in subsection (b), by striking "by death or"

(30) MURDER BY ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.--Section 2332b(c)(1) of title 18, United States Code, is amended by striking "punished by death or"

(31) MURDER INVOLVING TORTURE.--Section 2340(a) of title 18, United States Code, is amended by striking "punished by death or"

(32) MURDER RELATING TO A CONTINUING CRIMINAL ENTERPRISE OR RELATED MURDER OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER.--Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended--

(A) in each of subparagraphs (A) and (B) of subsection (e), by striking "by", or "may be sentenced to death"

(B) by striking subsections (g) and (h) and inserting the following:

"[(g) [Reserved].]"

"[(h) [Reserved].]"

(C) in subsection (j), by striking "and" as to appropriateness in that case of imposing a sentence of death;

(D) in subsection (k), by striking ", other than death, and all that follows before the period at the end and inserting "authorized by law";

(E) by striking subsections (l) and (m) and inserting the following:

"[(l) [Reserved].]"

"[(m) [Reserved].]"

(33) DEATH RESULTING FROM AIRCRAFT HIJACKING.--Section 46502 of title 49, United States Code, is amended--

(A) in subsection (a), by striking "put to death or"

(B) in subsection (b)(1)(B), by striking "put to death or".
Mr. President, to date, 10 individuals and 44 organizations—groups involved with AIDS, cerebral palsy, Alzheimer’s Disease, hospice care, and diabetes, among others—have endorsed this legislation.

Mr. President, I encourage my colleagues to look at this list of supporters, look at the bill, and join me in correcting a problem that is denying health care benefits to thousands of Americans.

Mr. President, I ask unanimous consent that the text of the bill and a list of endorsements be printed in the Record.

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

S. 1918

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 “Medicare for Individuals With Terminal Illnesses Act of 1999.”

SEC. 2. ELIMINATION OF MEDICARE WAITING PERIOD FOR INDIVIDUALS WITH A TERMINAL ILLNESS.

(a) IN GENERAL.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended by adding at the end the following:

“(i) Notwithstanding subsection (f), each individual with a terminal illness (as defined in section 226(j)(2)) who would have been entitled to the specified benefits for 24 months shall be entitled to hospital insurance benefits under part A of title XVIII for each month beginning with the first month after the expiration of the 24-month period.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1974.—Section 7(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 233d(d)(2)) is amended—

(A) in clause (i), by striking “or” at the end;

(B) in clause (ii), by striking the comma at the end and inserting “; or”;

and

(C) by inserting after clause (ii) the following:

“(iii)(I) has not attained age 65;

“(ii) has a terminal illness (as defined in section 226(j)(2) of the Social Security Act); and

“(iii) is entitled to an annuity under section 2 of this Act, or under the Railroad Retirement Act of 1937 and section 2 of this Act, or could have been includable in the computation of an annuity under section 3(3) of this Act, and could currently be entitled to monthly insurance benefits under section 222 of the Social Security Act or under section 202 of this Act on the basis of disability if service as an employee after December 31, 1986, had been included in the term ‘employment’ as defined in title II of the Act; or

and

if an application for disability benefits had been filed.”.

By Mrs. BOXER:
S. 1918. A bill to waive the 24-month waiting period for disabled individuals to qualify for Medicare benefits in the case of individuals suffering from terminal illness with not more than 2 years to live; to the Committee on Finance.

MRS. BOXER. Mr. President, today I am introducing legislation to correct a weakness in the Medicare law for those who develop a terminal illness.

Under current law, individuals under age 65 who are unable to work because of a disability can qualify for Medicare after a two-year waiting period. That is, two years after developing a disability, individuals can start to receive Medicare benefits to help pay for their health care costs.

There are reasons for this two-year waiting period, and this legislation would not change that. What I am concerned about, Mr. President, is the fact that thousands of individuals develop a disability that is terminal within two years.

I am talking about people with cancer, people with AIDS, people with Lou Gehrig’s Disease, to name just a few examples. In some cases, when these individuals are diagnosed and can no longer work, they have less than two years to live. That means they will die before the end of the waiting period, before they become eligible for Medicare, before they qualify to receive health care benefits. That is not right and must be fixed this year.

The Medicare for Individuals with Terminal Illness Act would change this. My bill would say that for people whose doctors expect them to live less than two years because of their disability or death, there will be no waiting period. They would qualify for Medicare immediately and could get the health care they need.

(2) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(A) DESCRIPTION OF PROGRAM.—Section 1811 of the Social Security Act (42 U.S.C. 1395b) is amended—

(i) by striking “section 226(b)” and inserting “section 226(b)”;

(ii) by striking “section 226(b)” and inserting “subsection (b)”;

and

(B) HOSPITAL INSURANCE BENEFITS FOR DISABLED INDIVIDUALS WHO HAVE EXHAUSTED THEIR ENTITLEMENT.—Section 1818(b) of the Social Security Act (42 U.S.C. 1395b-2(a)–(b)) is amended—

(i) in subsection (a)(2)(A), by striking “section 226(b)” and inserting “subsection (b)”;

(ii) in subsection (a)(2)(C), by striking “section 226(b)” and inserting “subsection (b)”;

(iii) in subsection (a)(2)(E), by striking “section 226(b)” and inserting “subsection (b)”;

and

(C) ELLIPSY AND DURATION.—Section 1837 of the Social Security Act (42 U.S.C. 1395l) is amended—

(i) in subsection (g)(1), by striking “but does not satisfy the requirements of section 226(b)” and inserting “subsection (b)”;

(ii) in subsection (g)(4)(A), by striking “section 226(b)” and inserting “subsection (b)”;

and

(iii) in subsection (g)(6)(b)(ii), by striking “section 226(b)” and inserting “subsection (b)”.

(C) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of its enactment.

By Mr. DODD (for himself and Mr. LEAHY):

S. 1919. A bill to permit travel to or from Cuba by United States citizens and lawful resident aliens of the United States; to the Committee on Foreign Relations.

The Freedom to Travel to Cuba Act of 2000

Mr. DODD. Mr. President, today my colleague, Senator LEAHY and I are introducing “The Freedom to Travel to Cuba Act of 2000.” We believe the time has come to lift the very archaic, counterproductive, and ill-conceived ban on Americans traveling to Cuba. Not only does this ban hinder rather than help our effort to spread democracy, it unnecessarily abridges the rights of ordinary Americans. The United States was founded on the principles of liberty and freedom. Yet when it comes to Cuba, our Government abridges these rights with no greater rationale than political and rhetorical gain.

Cuba lies just 90 miles from America’s shore. Yet those 90 miles of water might as well be an entire ocean. We have made a land ripe for American influence forbidden territory. In doing so, we have enabled the Cuban regime to be a closed system with the Cuban people having little contact with their closest neighbors.

Surely we do not ban travel to Cuba out of concern for the safety of Americans who might visit that island nation. Today Americans are free to travel to Iran, Sudan, Burma, Yugoslavia, North Korea—but not to Cuba. You can fly to North Korea; you can fly to Iran; you can travel freely. It seems to me if you can go to those countries, you ought not be denied the right to go to Cuba. If the Cubans want to stop Americans from visiting that country, that ought to be their business. But to say to an American citizen that he cannot travel to Cuba here, where they held American hostages for months on end, to North Korea, which has declared us an enemy of theirs completely, but that you cannot travel 90 miles off our shore to Cuba, is a mistake.

To this day, some Iranian politicians believe the United States to be “the Great Satan.” We hear it all the time. I just two days ago occupied our Embassy and took innocent American diplomats hostage. To this day, protesters in Tehran burn the American flag with the encouragement of officials in that Government. Those few Americans who venture into such inhospitable settings often find themselves pelted by rocks and accosted by the public.

Similarly, we do not ban travel to Sudan, a nation we attacked with cruise missiles last summer for its support of terrorism; to Burma, a nation with one of the most oppressive regimes in the world today; to North Korea, whose soldiers have peered at American servicemen through gun sights for decades; or Syria, which has one of the most egregious human rights records and is one of the foremost sponsors of terrorism.

We believe that it is time to end the inconsistency with respect to U.S. travel restrictions. We do not ban cruise travel to Cuba, a nation which is neither at war with the United States nor a sponsor of international terrorist activities. Why do we ban travel? Osten sibly so that we can pressure Cuban authorities into making the transition to a democratic form of government. I fail to see how isolating the Cuban people from democratic values and ideas will foster the transition to democracy in that country. I fail to see how isolating the Cuban people from democratic values and from the influence of Americans when they go to that country to help bring about the change we all seek serves our own interests.

The Cuban people are not currently permitted the freedom to travel enjoyed by many peoples around the world. However, because Fidel Castro does not permit Cubans to leave Cuba and come to this country is not justification for adopting a similar principle in this country that says Americans cannot travel freely. We have a Bill of Rights. We need to treasure and respect the fundamental rights that we embrace as American citizens. Travel is one of them. If other countries want to prohibit their citizens from going there, then that is their business. But for us to say that citizens of Connecticut or Alabama cannot go where they like is not the kind of restraint we ought to put on people.

If Americans can travel to North Korea, to the Sudan, to Iran, then I do not understand the justification for saying that they cannot travel to Cuba. I happen to believe that by allowing Americans to travel to Cuba, we can begin to change the political climate and bring about the changes we all seek in that country.

Today, every single country in the Western Hemisphere is a democracy, with one exception: Cuba. American influence through person-to-person and cultural exchanges was a prime factor in this evolution from a hemisphere ruled predominantly by authoritarian or military regimes to one where democracy is the rule. Our current policy toward Cuba isolates the Cuban people and prevents the United States from using our most potent weapon in our effort to combat totalitarian regimes, and that is our own people. They are the best ambassadors we have. Most totalitarian regimes bar Americans from coming into their countries for the very reasons I just mentioned. They are afraid the gospel of freedom will motivate their citizens to overthrow dictators, as they have done in dozens of nations over the last half century. Isn’t it ironic that when it comes to Cuba we do the dictator’s bidding for him in a sense? Cuba does not have to worry about America spreading democracy. Our own Government stops us from doing so.

Let me review for my colleagues who may travel to Cuba under current Government regulations and under what categories of people may travel to Cuba without applying to the Treasury Department for a specific license to travel. They are deemed to be authorized to travel under so-called general license: Government officials, regularly employed journalists, professional researchers who are “full time professionals who travel to Cuba to conduct professional research in their professional areas”, Cuban Americans who have relatives in Cuba who are ill (but only once a year).

There are other categories of individuals who theoretically are eligible to travel to Cuba as well but must apply for a license from the Department of the Treasury and prove they fit a category in which travel to Cuba is permissible. What are these categories? The first is so-called freelance journalists, provided they prove they are journalists; they must also submit their itinerary for the proposed research. The second is Cuban Americans who are unfortunate enough to have more than one humanitarian emergency in a 12-month period and therefore cannot travel under a general license. The third is students and faculty from U.S. academic institutions that are accredited by an appropriate national or regional educational accrediting association who are participating in a “structural education program.” The fourth is members of U.S. religious organizations. The fifth is individuals participating in public performances, clinics, workshops, athletic and other competitions and exhibitions. If that isn’t complicated enough just because you think you may fall into one of the above enumerated categories does not necessarily mean you will actually be licensed by the U.S. Government to travel to Cuba.
Under current regulations, who decides whether a researcher's work is legitimate? Who decides whether a freelance journalist is really conducting journalistic activities? Who decides whether or not a professor or student is participating in "structured educational activities"? Who decides whether a religious person is really conducting a "religious activity"? Who decides whether a journalist is really conducting "journalistic activities"? Who decides whether or not a professor or student is participating in a "structured educational activity"? How can we ensure that the full Senate has an opportunity to debate and vote on this matter when the Senate convenes next week? I will join with us at that time in restoring American citizens' rights to travel wherever they choose, including to the island of Cuba.

By Mr. LEVIN (for himself and Mr. SPECTER):

S. 20. A bill to combat money laundering and protect the United States financial system by addressing the vulnerabilities of private banking to money laundering, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MONEY LAUNDERING ABATEMENT ACT OF 1999

Mr. LEVIN. Mr. President, today I am introducing, along with Senator SPECTER, the Money Laundering Abatement Act of 1999.

The Senate Permanent Subcommittee on Investigations, of which I am the ranking member, is currently holding hearings on problems specific to private banking and the vulnerabilities of the financial service in which banks provide one-on-one services tailored to the individual needs of wealthy individuals. The Subcommittee's investigations and hearings show that private banks have operated as a culture which encourages secrecy, impeding account documentation for regulators and law enforcement entities. This culture makes private banking peculiarly susceptible to money laundering.

The Money Laundering Abatement Act is intended to supplement and reinforce the current anti-money-laundering laws and bolster the efforts of regulators and law enforcement bodies in this nation and around the world and the efforts of others in Congress.

Our investigation into private banking has shown that money launderers may launder their transactions by commingling the proceeds in so-called "concentration accounts" and aggregate the funds from multiple customers and transactions. The bill curtails the illicit use of these accounts by prohibiting institutions from using these accounts to launder money. The bill also prohibits U.S. financial institutions from opening or maintaining correspondent accounts with so-called "brass plate" banks—most often in offshore locations—that are not licensed to provide services in their home countries and are not subject to comprehensive home country supervision on a consolidated basis, reducing the likelihood that U.S.-based institutions will receive funds that may derive from illicit sources.

The bill would also eliminate significant gaps in current U.S. law by expanding the list of crimes committed on foreign soil that can serve as predicates for money laundering prosecutions in the U.S., such as the laundering of corruption and the misappropriation of IMF funds. It would expand the jurisdiction of U.S. courts, by including transactions in which money is laundered through foreign banks as a "nexus" in the United States.

The bill addresses the reality that governmental corruption weakens economies...
and causes political instability and when U.S. banks profit from the fruits of such corruption they run counter to U.S. interests in ending such corruption.

Another problem that we have encountered repeatedly in our investigations is that many private banks have written policies that repeatedly stress that the banker must know a customer’s identity and source of funds. Yet in practice, many private bankers do not comply with their own bank’s policies. This complicates our investigation.

The bill requires financial institutions to develop and apply due diligence standards for accounts for private banking customers to verify the customers’ identity and source of wealth, both when opening such accounts and on an ongoing basis.

Finally, the bill would authorize funding for FinCEN to develop an automated “alert database.” FinCEN, an arm of the Department of the Treasury, prepares FinCEN Transaction Reports and Suspicious Activity Reports, important tools in fighting money laundering. However, FinCEN officials have told me that they lack a database which will automatically alert them to patterns of suspicious activity that could indicate money laundering or other illicit activity. Such a database is imperative to enable FinCEN to adequately serve the law enforcement bodies that it supplies information to.

This bill will close gaps in anti-money laundering laws and regulations. I ask unanimous consent that the bill and a summary of the bill be printed in the RECORD.

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

S. 1920

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 “Money Laundering Abatement Act of 1999.”

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Money laundering is a serious problem that enables criminals to reap the rewards of their crimes by hiding the criminal source of their profits.

(2) When carried out by using banks, money laundering erodes the integrity of our financial institutions.

(3) Foreign financial institutions are a critical link in our efforts to combat money laundering.

(4) In addition to organized crime enterprises, corrupt government officials around the world increasingly employ sophisticated money laundering schemes to conceal wealth they have plundered or extorted from their nations or received as bribes, and these practices weaken the legitimacy of foreign states, threaten the integrity of international financial markets, and harm foreign policy interests.

(5) Private banking is a growing activity among financial institutions based in and operating in the United States.

(b) PURPOSE.—The purpose of this Act is to enhance the ability of financial institutions to combat money laundering, particularly in private banking activities.

SEC. 3. IDENTIFICATION OF ACTUAL OR BENEFICIAL OWNERS.

(a) TRANSACTIONS AND ACCOUNTS WITH OR ON BEHALF OF FOREIGN ENTITIES.—Subchapter II of chapter 53 of title 31 United States Code, is amended by adding at the end the following:

§5331. Requirements relating to transactions and accounts with or on behalf of foreign entities.

(a) Definitions.—Notwithstanding any other provision of this subchapter, in this section the following definitions shall apply:

(1) Account.—The term ‘account’—

(A) means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions; and

(B) includes a demand deposit, savings deposit, or other asset account and a credit account or other extension of credit.

(2) Correspondent account.—The term ‘correspondent account’ means an account established to receive deposits from and make payments on behalf of a correspondent bank.

(3) Correspondent bank.—The term ‘correspondent bank’ means a depository institution that accepts deposits from another financial institution and provides services on behalf of such institution.

(4) Depository institution.—The term ‘depository institution’ has the same meaning as in section 18(b)(1)(A) of the Federal Reserve Act.

(5) Foreign banking institution.—The term ‘foreign banking institution’ means a foreign entity that engages in the business of banking, and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking, and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking.

(6) Foreign entity.—The term ‘foreign entity’ means any entity that is not organized under the laws of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

(b) PROHIBITION ON OPENING OR MAINTAINING ACCOUNTS BELONGING TO OR FOR THE BENEFIT OF UNIDENTIFIED OWNERS.—A depository institution or a branch of a foreign bank (as defined in section 1 of the International Banking Act of 1978) may not open or maintain an account in the United States for a foreign entity or a representative of a foreign entity, unless—

(1) for each such account, the institution completes and maintains in the United States a form or record identifying, by a verifiable name and account number, each person having a direct or beneficial ownership interest in the account; or

(2) such shares of the foreign entity are publicly traded.

(c) PROHIBITION ON OPENING OR MAINTAINING CORRESPONDENT ACCOUNTS OR CORRESPONDENT RELATIONSHIP WITH CERTAIN FOREIGN BANKS.—A depository institution, or branch of a foreign bank, as defined in section 1 of the International Banking Act of 1978, may not establish a correspondent account in the United States for or on behalf of a foreign banking institution, or establish or maintain a correspondent bank relationship with a foreign banking institution (other than in the case of an affiliate of a branch of a foreign bank), that—

(1) is not subject to comprehensive supervision or regulation on a consolidated basis by appropriate authorities in such jurisdiction; or

(2) is not subject to comprehensive supervision or regulation on a consolidated basis by appropriate authorities in the United States.

SEC. 4. PROPER MAINTENANCE OF CONCENTRATION ACCOUNTS AT FINANCIAL INSTITUTIONS.

Section 5318(h) of title 31, United States Code, is amended by adding at the end the following:

(3) Availability of certain account information.—The Secretary shall prescribe regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual with the funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum—

(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;

(B) prohibit financial institutions and their employees from informing customers of the existence of, or means of identifying, the concentration accounts of the institution; and

(c) require each financial institution to establish written policies for the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving concentration accounts contains funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.

SEC. 5. DUE DILIGENCE REQUIRED FOR PRIVATE BANKING.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after the last paragraph of section 5(a), the following:

SEC. 5A. DUE DILIGENCE.

(a) Private Banking.—In fulfillment of its anti-money laundering obligations under section 5318 of title 31, United States Code, each depository institution that engages in private banking shall establish due
diligence procedures for opening and review-
ing, on an ongoing basis, accounts of private
banking customers. 

(b) M I N I M U M S T A N D A R D S . — T h e d u e
diligence procedures required by paragraph (1)
shall, at a minimum, ensure that the deposit-
ory institution knows and verifies, through
probative documentation, the identity and fin-
cance of each private banking cus-
tomer of the institution and obtains
sufficient information about the source of
funds of the customer to meet the anti-
money laundering obligations of the institu-
tion.

(c) C O M P L I A N C E R E V I E W . — T h e a p p r o p r i a-
t Federal banking agencies shall review com-
mpliance with the requirement of this section
as part of each examination of a depository
institution under this Act.

(d) R E G U L A T I O N S . T h e B o a r d o f G o v-
eors of the Federal Reserve System shall,
after consultation with the other appro-
priate Federal banking agencies, define the
‘term private banking’ by regulation for pur-
poses of this section.

S E C . 6. S U P P L E M E N T A T I O N O F C R I M E S C O N S T I-
TUTING MONEY LAUNDERING.
Section 1956(c)(7)(B) of title 18, United
States Code, is amended Ð
(1) by striking clause (ii) and inserting
the following:

(ii) any conduct constituting a crime of 
violation of section 1001 of title 18, United States
Code; or

(ii) by adding at the end the following:

(2) fraud, or any scheme to defraud, com-
mitted against a foreign government or for-

eign governmental entity under the laws of
that government or entity;

(3) bribery of a foreign public official, or
the misappropriation, theft, or embezzle-
ment of property committed against a for-
mestic public official under the laws of the
country in which the subject conduct oc-
curred or in which the public official holds
office;

(4) smuggling or export control viola-
tions involving munitions listed in the
United States Munitions List or technologies
with military applications, as defined in the
Commerce Control List of the Export Admin-
istration Regulations;

(5) an offense with respect to which the
United States would be obligated by a mul-
tilateral treaty either to extradite the alleged
offender or to submit the case for prosecu-
tion, if the offender were found within the
territory of the United States; or

(6) the misuse of funds of, or provided by,
the International Monetary Fund in con-
travention of Articles of Agreement of the
Fund or the misuse of funds of, or pro-
vided by, any other international financial
institutions (as defined in section 1701(c)(2)
of the International Financial Institutions Act)
in contravention of any international treaty
or other international agreement to which
the United States is a party, including any
article or provision of the member of such
international financial institution;

S E C . 7. P R O H I B I T I O N O N F A L S E S T A T E M E N T S T O 
F I N A N C I A L I N S T I T U T I O N S C O N C E R N I N G T H E I D E N T I T Y 
O F A C U S T O M E R.

(a) I N G E N E R A L . — Chapter 47 of title 18,
United States Code (relating to fraud and false
statements) is amended by inserting
after section 1007 the following:

§ 1008. False statements concerning the iden-
tity of customers of financial institutions

(a) I N G E N E R A L .—Whoever knowingly in
any matter within the jurisdiction of any
financial institution:

(1) falsifies, conceals, or covers up, or at-
tempts to falsify, conceal, or cover up, the
identity of any person in connection with
any transaction with a financial institution;

(2) makes, or attempts to make, any ma-
terially false, fraudulent, or fictitious state-
ment or representation of the identity of
any person in connection with a transaction with
a financial institution;

(3) makes or uses, or attempts to make or
use, any false writing or document knowing
the same to contain any materially false,
fictitious, or fraudulent statement or entry
concerning the identity of any person in con-
nexion with a transaction with a financial institu-
tion; or

(4) uses or presents, or attempts to use or
present, in connection with a transaction with
a financial institution, an identification
document or means of identification the
possession of which is a violation of section
1028; shall be fined under this title, imprisoned
not more than 5 years, or both.

(b) D E F I N I T I O N S . — I N T H I S S E C T I O N : 

(1) F I N A N C I A L I N S T I T U T I O N . — A d d i t i o n a l l y
in addition to

(2) TECHNICAL AND CONFORMING AMEND-
MENTS.

(1) TITLE 18, UNITED STATES CODE.—Section
1956(c)(7)(B) of title 18, United States
Code, is amended by striking “1014 (relating to
fraudulent loan)” and inserting “1008 (re-
lating to false statements concerning the
identity of customers of financial institu-
tions), section 1014 (relating to fraudulent
loan).”

(2) TABLE OF SECTIONS.—The table of sec-
tions for chapter 47, title 18, United States
Code, is amended by inserting after the item
relating to section 1007 the following:

1008. False statements concerning the iden-
tity of customers of financial institutions

S E C . 8. A P P R O P R I A T I O N F O R F I N C E N T O I M-
PLETE SAFETY/CRITICAL DATABASE.

There is authorized to be appropriated $1,000,000,
to remain available until expended, for the Financial Crimes Enforce-
ment Network of the Department of the Treasury to implement an automated
data base that the Secretaries of the Treasury and Daycare enfore

MONEY LAUNDERERS.
Section 1956(c) of title 18, United States
Code, is amended Ð
(1) by redesignating paragraphs (1) and (2)
as subparagraphs (A) and (B), respectively;

(2) by inserting “(1)” after “(b)”; and

(3) by inserting “, or section 1957 after ‘or
(a)’; and

(4) by adding at the end following:

(2) For purposes of adjudicating an action
filed or enforcing a penalty ordered under
this section, the district courts shall have
jurisdiction over any foreign person, includ-
ing any financial institution authorized
under the laws of a foreign country, that
commits an offense under subsection (a) in-
volved a financial transaction that occurs
in whole or in part in the United States, if
identified in that transaction.

S E C . 10. L A N D E R O N M O N E Y T H R O U G H A F O R E-
IGN FINANCIAL INSTITUTION.
Section 1956(c)(6) of title 18, United States
Code, is amended to read as follows: 

(1) the term ‘financial institution’ includes

(A) any financial institution described in
sections 5312(a)(2) of title 31, or the regu-
lations promulgated thereunder; and

(B) any foreign bank as defined in section
1(b)(7) of the International Banking Act of
1978 (12 U.S.C. 3101(7)).

S E C . 11. E F F E C T I V E D A T E . 
It was specifically provided in this Act, this Act and the amendments
made by this Act shall take effect 90 days
after the date of enactment of this Act.

A United States depository institution or a United States branch of a foreign
institute could not open or maintain an account in the
United States for a foreign entity unless the
owner of the account was identified on a

The Secretary of the Treasury would be re-
quired to issue regulations to ensure that

The list of crimes that are predicates to
money laundering would be broadened to in-
clude, among other things, corruption or
fraud by or against a foreign government
under that government’s laws or the laws
of the country in which the conduct occurred,
and unauthorized diversion of funds provided by
the IMF or similar organizations.

Institutions that engage in private bank-
ing would be required to provide account in-
formation and documentation to the request-
ing agency.

It would be a federal crime to knowingly
falsify or conceal the identity of a financial
institution customer.

An appropriation would be authorized for
FinCEN, which tracks reports filed by finan-
cial institutions under the Bank Secrecy
Act, to establish an automated system of
alerting authorities when multiple reports
related to the same customer.

The definition of money laundering in cur-
rent statutes would be expanded to include
laundering money through foreign banks.

A P P E N D I C I S C O S P O N S O R S
5. 74
At the request of Mr. Daschle, the name of the Senator from Arkansas
(Mrs. Lincoln) was added as a cospon-
sor of S. 74, a bill to amend the Fair
Labor Standards Act of 1938 to provide