nominations were received by the Senate and appeared in the Congressional Record on November 16, 1999.

Navy nominations beginning Dean J. Giordano and ending William K. Nesmith, which nominations were received by the Senate and appeared in the Congressional Record on February 7, 2000.

Navy nominations beginning David R. Allison and ending Steve R. Wilkinson, which nominations were received by the Senate and appeared in the Congressional Record on February 7, 2000.

Navy nominations beginning Raquel C. Bono and ending Mil A. Yi, which nominations were received by the Senate and appeared in the Congressional Record on February 8, 2000.

Navy nomination of Rabon E. Cooke, which was received by the Senate and appeared in the Congressional Record of February 9, 2000.

Navy nomination of Amy J. Potts, which was received by the Senate and appeared in the Congressional Record of February 9, 2000.

Marine Corps nomination of Joseph B. Davis, Jr., which was received by the Senate and appeared in the Congressional Record of November 16, 1999.

Marine Corps nominations beginning Michael C. Albo and ending Richard W. Yoder, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2000.

Marine Corps nominations beginning Christopher F. Ajinga and ending Joan P. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record on February 9, 2000.

Marine Corps nominations beginning Joe H. Adkins, Jr., and ending Christopher M. Zuchristian, which nominations were received by the Senate and appeared in the Congressional Record on February 9, 2000.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER (for himself, Mr. TORRICELLI, Mr. THURMOND, Mr. BIDEN, Mr. GRASSLEY, Mr. FEINGOLD, Mr. HELMS, Mr. SCHUMER, and Mr. SESSIONS):

S. 2089. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to modify procedures relating to orders for surveillance and searches for foreign intelligence purposes, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. LOTT, Mr. DASCHLE, Mr. CRAIG, Mr. BUNNING, Ms. SNOWE, Mr. CONRAD, Ms. LANDRIEU, Mr. KERREY, and Mr. GREGG):

S. 2090. A bill to amend the Internal Revenue Code of 1986 to impose a 1 year moratorium on certain diesel fuel excise taxes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2091. A bill to amend the Act that authorized construction of the San Luis Unit of the Central Valley Project, California, to facilitate water transfers in the Central Valley Project; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself and Mr. KYL):

S. 2092. A bill to amend title 18, United States Code, to modify authorities relating to the use of pen registers and trap and trace devices, to modify provisions relating to fraud and related activities in connection with computers, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. BAUCUS, and Mr. DASCHLE):

S. 2093. A bill to amend the Transportation Equity Act for the 21st Century to ensure that full obligation authority is provided for the Indian reservation roads program; to the Committee on Environment and Public Works.

By Mr. KENNEDY:

S. 2094. A bill to amend the Energy Policy and Conservation Act to ensure that petroleum importers, refiners, and wholesalers accumulate minimally adequate supplies of home heating oil to meet reasonably foreseeable needs in the northeastern States; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 2095. A bill to provide for the safety of migrant seasonal agricultural workers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAYH:

S. 2096. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit to long-term caregivers; to the Committee on Finance.

By Mr. BURNS (for himself, Mr. GRAMM, Mr. LOTT, Mr. STEVENS, Mr. CRAPO, Mr. HUTCHINSON, Mr. ALLARD, Mr. BUNNING, Ms. SNOWE, Ms. COLLINS, and Mr. GRASSLEY):

S. 2097. A bill to authorize loan guarantees in order to facilitate access to local television broadcast signals in unserved and underserved areas, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MURKOWSKI (for himself and Ms. LANDRIEU):

S. 2098. A bill to facilitate the transition to more competitive and efficient electric power markets, and to ensure electric reliability; to the Committee on Energy and Natural Resources.

By Mr. REED:

S. 2099. A bill to amend the Internal Revenue Code of 1986 to require the registration of handguns, and for other purposes; to the Committee on Finance.

By Mr. EDWARDS (for himself, Mr. LAUTENBERG, and Mr. TORRICELLI):

S. 2100. A bill to provide for fire sprinkler systems in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories; to the Committee on Health , Education, Labor, and Pensions.

By Mr. MACK (for himself and Mr. BENNETT):

S. 2101. A bill to promote international monetary stability and to share seigniorage with officially dollarized countries; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INOUYE (for himself, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 2102. A bill to provide to the Timbisha Shoshone Tribe a permanent land base within its aboriginal homeland, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. 2103. A bill to amend the Internal Revenue Code of 1986 to provide equitable treatment for associations which prepare for or mitigate the effects of natural disasters; to the Committee on Finance.

S. 2104. A bill to amend the Tax Reform Act of 1984; to the Committee on Finance.

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

S. 2105. A bill to amend chapter 65 of title 18, United States Code, to prohibit the unauthorized destruction, modification, or alteration of product identification codes used in consumer product recalls, for law enforcement, and for other purposes; to the Committee on the Judiciary.

By Mr. ASHCROFT:

S. 2106. A bill to increase internationally the exchange and availability of information regarding biotechnology and to coordinate a federal strategy in order to advance the benefits of biotechnology, particularly in agriculture; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HELMS (for himself and Mr. SMITH OF OREGON):

S. Res. 259. A resolution urging the decommissioning of arms and explosives in Northern Ireland; to the Committee on Foreign Relations.

By Mr. BOND (for himself, Mr. HOLLINGS, Mr. COCHRAN, Mr. DASCHLE, Mr. HATCH, Mr. KENNEDY, Mr. HUTCHINSON, Mr. BREAUX, Mr. DEWINE, Mrs. LINCOLN, Mrs. MURRAY, and Mr. INOUYE):

S. Res. 260. A resolution to express the sense of the Senate that the Federal investment in programs that provide health care services to uninsured and low-income individuals in medically under served areas be increased in order to double access to care over the next 5 years; to the Committee on Appropriations.

By Mr. HELMS (for himself, Mr. BIDEN, Mr. ROTH, Mr. LOTT, and Mr. DODD):

S. Res. 261. A resolution expressing the sense of the Senate regarding the detention of Andrei Babitsky by the Government of the Russian Federation and freedom of the press in Russia; considered and agreed to.

By Mr. WELLSTONE:

S. Res. 262. A resolution entitled the ''Peaceful Resolution of the Conflict in Chechnya''; considered and agreed to.

By Mr. DODD:

S. Con. Res. 82. A concurrent resolution condemning the assassination of Fernando Buesa and Jorge Diez Elorza, Spanish nationals, by the Basque separatist group, ETA, and expressing the sense of the Congress that violent actions by ETA cease; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself and Mr. WELLSTONE):

S. Con. Res. 83. A concurrent resolution commending the people of Iran for their commitment to the democratic process and positive political reform on the occasion of Iran's parliamentary elections; considered and agreed to.

By Mr. WARNER (for himself and Mr. INOUYE):

S. Con. Res. 84. A concurrent resolution expressing the sense of Congress regarding the naming of aircraft carrier CVN-77, the last vessel of the historic ''NIMITZ'' class of aircraft carriers, as the U.S.S. Lexington; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. SPECTER (for himself, Mr. TORRICELLI, Mr. THURMOND, Mr. BIDEN, Mr. GRASSLEY, Mr. FEINGOLD, Mr. HELMS, Mr. SCHUMER, and Mr. SESSIONS):

S. 2089. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to

modify procedures relating to orders for surveillance and searches for foreign intelligence purposes, and for other purposes; to the Committee on the Judiciary.

THE COUNTERINTELLIGENCE REFORM ACT OF 2000

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation which would correct procedures under the Foreign Intelligence Surveillance Act. I offer this bill on behalf of Senator TORRICELLI, Senator THURMOND, Senator BIDEN, Senator GRASSLEY, Senator FEINGOLD, Senator HELMS, Senator SCHUMER, and Senator SESSIONS.

This is legislation which is designed to correct a very pressing problem. This bill refines the Foreign Intelligence Surveillance Act to enable the appropriate investigations of espionage to avoid the very serious mistakes which were made during the investigation of Dr. Wen Ho Lee. The references to Dr. Lee's investigation are made only for the purpose of illustrating the procedural problems which this legislation is designed to correct. The determination as to whether or not Mr. Wen Ho Lee is guilty will remain for the court of competent jurisdiction where he has been indicted.

There was information released into the public domain at Mr. Lee's bail hearing which underscores the tremendous importance of this particular case. Dr. Stephen Younger, assistant laboratory director for nuclear weapons at Los Alamos, testified at Dr. Lee's bail hearing on December 13, 1999, and said:

> These codes and their associated databases and the input file, combined with someone that knew how to use them, could, in my opinion, in the wrong hands, change the global strategic balance.

It is hard to have any item of greater importance than changing the global strategic balance.

Dr. Younger further testified:

> They enable the possessor to design the only objects that could result in the military defeat of America's conventional forces. . . They represent the gravest possible security risk to . . . the supreme national interest.

Again, it is hard to find more forceful language as to the seriousness of this particular matter than the potential military defeat of America's conventional forces.

During the course of this investigation, there were very serious time lapses while the FBI sought to get a warrant on Dr. Lee under the Foreign Intelligence Surveillance Act.

The FBI made the FISA request in June of 1997. It was refused by the Department of Justice on August 12, 1997, and then FBI Director Freeh sent FBI Assistant Director John Lewis to talk personally to Attorney General Reno. Attorney General Reno then appointed a Department of Justice subordinate named Daniel Seikaly, who reviewed the matter and rejected it. Attorney General Reno, as she conceded in testimony presented to the Judiciary Committee on June 8, 1999, did not follow up on the matter, leaving this very important request rejected.

The proposed legislation would require that when the Director of the FBI makes a request for a FISA warrant that the Attorney General personally must make the decision as to whether the FISA warrant request should be submitted to the court for action. The legislation further provides that when the Attorney General declines to submit the FISA application to the court, the rejection must be in writing. This would give the FBI Director a roadmap, so to speak, as to what additional information is necessary to have the warrant request submitted to the court.

After the Department of Justice declined to submit the FISA warrant to the court, the FBI investigation of the case was inactive for some 16 months. It took from August of 1997 to December of 1997 for the FBI Headquarters to send a letter regarding the FISA request to the FBI Albuquerque Field Office, where it lay dormant until November of 1998. From the time the FISA application was not forwarded to the court to the time the FBI office in Albuquerque finally acted, some 16 months elapsed. These 16 months were very crucial with respect to the activities of Dr. Lee.

This legislation further provides that when the Attorney General rejects a FISA application in writing, the Director of the FBI has the obligation to personally supervise the matter.

The Department of Energy then initiated a polygraph of Dr. Lee, in a very unusual way, that has since been criticized by the President's Foreign Intelligence Advisory Board. The Department of Energy represented that Dr. Lee passed the polygraph when, in fact, he had not. The Secretary of Energy even made an announcement on national television to the effect that Dr. Lee had passed the polygraph when, in fact, he had not. That threw the FBI off course, thinking that a passed polygraph exonerated the suspect. This legislation provides that an agency such as the Department of Energy may not take action on a polygraph, that these matters are to be left to the FBI, which has the paramount authority to investigate these matters.

The FBI then conducted another polygraph, but not until February 10, 1999, some 6 weeks after the polygraph he allegedly passed. Even though Dr. Lee failed this second polygraph, no action was taken to terminate Dr. Lee until March 8. In the interim, he deleted many of the files that are in issue. These deletions took place on January 20, February 9, 11, 12, and 17, all to the potential prejudice of the United States. Dr. Lee did not have a search warrant executed until April 9, which is a very long lapse before any official action had been taken.

The legislation further provides that when a suspect is left in place for the purpose of the investigation, the FBI must make this request in writing and that to that agency. The agency, such as the Department of Energy, must then formulate a plan within 30 days to structure how that suspect will be left in place while minimizing the exposure of classified information to that person.

One of the reasons given by the Department of Justice in declining to go forward with the FISA application was that Dr. Lee was not ''currently engaged'' in objectionable activities—to use mild words. This bill changes that requirement to probable cause on the totality of the circumstances.

That is a brief summary of what this legislation would do. It is the view of the sponsors of this bill that it is very important for it to move forward so that on pending espionage investigations we do not have the lapses that occurred in this very important case.

I am pleased to note that all the members of the Judiciary Subcommittee have joined in cosponsoring this legislation. I thank my colleague, Senator TORRICELLI, for his cooperation. Senator THURMOND, Senator GRASSLEY, and Senator SESSIONS have all cosponsored among the Republican members, as have Senators FEINGOLD and SCHUMER, in addition to Senator TORRICELLI. Senator BIDEN was consulted specially and is a cosponsor because he was the author of the Foreign Intelligence Surveillance Act back in 1978. Senator HELMS has asked to be added as a cosponsor, which he has.

The subcommittee has had some substantial difficulty in ''birth'' pains; it has not really been born, to the extent that the subcommittee has not been funded. We have worked really from our own personal staffs. We have had three fellows and one detailee. We have completed a very lengthy detailed report, some 65 pages, which is the product of extraordinary work by Mr. Doman McArthur of my staff, in collaboration with Senator TORRICELLI's staff and the staffs of others. We have gone through the 65-page report with a fine-tooth comb to be sure that it is precise, exact, and does not make any disclosures as to any classified information.

The subcommittee has deferred holding hearings on the Wen Ho Lee matter, which had been scheduled for December, at the specific request of Director Freeh. Director Freeh met with TORRICELLI and myself and requested that the hearings on Dr. Lee not go forward substantively, which might cause some problem with the pending prosecution. We do have hearings scheduled on the legislation for March 7, 8 and 21. I have already informed FBI Director Freeh of our intentions to proceed with those hearings, which will be on the substance as to how the act should be reformed. We have given notice to Director Freeh that we would appreciate his presence as a witness. He has said he would be glad to attend.

That is a very brief statement of a very complex matter. It is my hope we will have the final clearance from the

Department of Justice to be able to file the full 65-page report which will elaborate upon the brief summary which I have presented.

I am delighted to yield to my very distinguished colleague from New Jersey, Senator TORRICELLI, the ranking member of the subcommittee.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, I thank Senator SPECTER for yielding time to me. I also thank him for his perseverance and diligence in working on this issue over the course of the last several months.

I also express particular thanks to Senator BIDEN who in reviewing this legislation made very important additions and allowed us to proceed on a bipartisan basis for what I think is an important and worthwhile change in the laws dealing with foreign intelligence surveillance.

The origins of this legislation—part of the Judiciary Committee's oversight—is the question of how the Department of Justice handled allegations of Chinese espionage at our most important National Laboratories.

The focus of this review, of course, had to do with the case of Dr. Wen Ho Lee, a scientist who was charged in December with 59 counts of illegally removing secrets from computer information at the Los Alamos Laboratory. It appears that Dr. Lee was the subject of interest or investigations for espionage for over 17 years. He was dealing with the most important weapons secrets possessed by his government critical to the security of the United States.

It would be difficult for anyone in this Government to explain to the American people why, despite 17 years of investigation and some reasons for considerable doubt all during this time, he was permitted to continue with his job and retain access to highly classified information.

Much is still to be learned about this case. A criminal case is proceeding and an investigation. That is for, in some instances, others to deal with. That does not mean we do not already know some things that can change the conduct in this Government and the laws under which we govern ourselves. We have learned through this investigation that this was all made possible by a series of procedural and investigative errors that gave Dr. Lee this opportunity to download this highly classified material to an unsecured computer.

In truth, we do not yet know whether or not, when this unguarded material was in an unsecured computer, in fact it got to foreign agents or other interested parties other than people with proper clearance in the U.S. Government. We do not know. We may never know. But we do know this after interviewing many witnesses and thousands of documents: There was a startling, almost unbelievable failure of coordination and communication between the Department of Justice, the FBI, and the Department of Energy in dealing with this matter, and only through that lack of coordination was an allegation of possible espionage able to lead to 17 years of continued access and the possibility that this information was compromised.

As early as 1982, the FBI was aware that Dr. Lee was engaged in suspicious activities. Yet both at that time and in the years that followed there was no action taken to limit access to classified material. The Department of Energy detected Dr. Lee transferring an inordinate number of systems from a secured system to an unsecured system in 1993 and 1994. Personnel responsible for reporting that information failed to do so.

In 1997, the FBI had an opportunity to stop Dr. Lee, but they were stymied by the denial of the Department of Justice of a request submitted by the FBI for a warrant to further investigate Dr. Lee. It is this failure that brings us here today.

The evidence supporting a FISA request for their warrant was overwhelming. It had been building for years. No single piece of evidence may have been sufficient to warrant a criminal case, but they were more than sufficient to raise a proper level of suspicion to support the issuing of a warrant.

Now we know that the request for this warrant, a FISA application, was never even considered by the Attorney General of the United States. When the Director of the Federal Bureau of Investigation, Mr. Freeh, sent a personal representative to meet with the Attorney General to express his concern about the warrant application, which he was right and proper to do, the Attorney General delegated the matter to a subordinate who was unfamiliar with the matter and who had never processed a similar request—no experience, no knowledge, no involvement—and the final disposition of the matter, therefore, was predictable. The request was denied. The warrant was not issued, and an opportunity potentially to either apprehend someone committing a criminal act or to have prevented further damage, if any occurred, was lost.

Unfortunately, this problem was compounded in that when the FBI was denied this warrant, in my judgment, the matter should have been appealed but it was allowed to languish, and then further hampered by the Department of Energy which conducted a polygraph of Dr. Lee, and then, incredibly, unbelievably incorrectly concluded that he had passed the test.

It is a series of compounded errors of procedure and judgment. It is difficult for the Congress to legislate good judgment for the proper execution of responsibilities. If we cannot do so, we can at least design the laws to provide for greater accountability.

That is, indeed, what is being done by my colleagues. Under the legislation we are now introducing, Senator SPECTER and I have written amendments to the Foreign Intelligence Surveillance Act to provide that upon the personal request of the Director of the FBI, the Attorney General must personally review the FISA requests—no subordinate, no uninformed associate. This is a matter of national security. The Attorney General has no greater responsibility than protecting the secrets of the U.S. Government. This matter belongs on the Attorney General's desk, and under this legislation that is where it will rest.

There are those who may argue that making the Attorney General directly responsible will somehow provide an avalanche of work, that they will not be able to deal with all of these matters. Appropriately, the legislation has been designed so this provision is triggered only by the personal request from the Director of the FBI—no subordinate, no associate, no one else in the Government. So the number of cases will be extremely limited. But when asked by the Director of the FBI, one person, and one person in this Government alone, will have direct responsibility.

Second, the legislation requires that if the Attorney General decides not to forward a FISA application to the court, that decision must be communicated in writing to the FBI Director along with specific recommendations as to what investigative steps should be undertaken to meet the probable cause requirements. Matters of national security on this level cannot fall in departmental cracks—not get lost somewhere between Justice and the FBI. This will ensure that in those cases when the Attorney General has personally rejected this request the reasons will be stated, the FBI will be told why and then given a chance to return having met the appropriate probable cause standard.

Third, the legislation requires that the FBI Director must personally supervise the implementation of the Attorney General's recommendations to ensure once again that in the highest levels of the U.S. Government these unusual but critical cases of national security dealing with foreign espionage are dealt with not by subordinates, but that this Congress can hold people for which it has responsibility, oversight, and votes to confirm—such as the Attorney General and the FBI Director—directly accountable.

I believe these are appropriate responses to what we have learned to date out of this investigation. But I conclude by saying both what this legislation is and what it is not.

This legislation is not an attempt to lower the probable cause standard for what is required for a warrant and a FISA application. Probable cause is a standard of law. It should be taken seriously. The rights of no citizen should be violated by an intrusive or curious government. The standard remains.

What is being changed here is accountability, not a lessening of civil

liberties. We simply want to know that the standard which has always existed of probable cause will be used, that procedures will be followed, that people will be held accountable, not that the Government is any more or any less intrusive. The probable cause standard remains the cornerstone of American liberties to ensure that the Government has reason and merit as a matter of law to involve itself in the privacy of our citizens.

I proudly offer this legislation with Senator SPECTER. I believe it is a good and appropriate response. I thank the Senator for his patience in the drafting. I listened to my colleagues, particularly on this side of the aisle, with relatively modest changes we have recommended, all of which the Senator has incorporated. I look forward to the committee and then the Senate enacting this legislation.

Mr. BIDEN. FISA, the Foreign Intelligence Surveillance Act of 1978, is a very vital part of our arsenal to combat terrorism and espionage. For 20 years, it has enabled the FBI to keep track of major threats to our security while preserving the constitutional rights of Americans. Basically, it provides for a sort of super search warrant, allowing the FBI, under certain unique circumstances, to eavesdrop upon activities, after showing a probable cause to a Federal judge, without having to disclose this eavesdropping in ways that they would have to under a normal warrant for a wiretap or a physical search.

FISA has been very useful to deal with terrorism, and also with espionage cases.

Senator SPECTER has undertaken an effort to look into what may or may not have transpired at our National Laboratories in the celebrated case of Wen Ho Lee and others. This has been the subject of some very legitimate discussion, and occasionally some partisan discussion. But knowing Senator SPECTER as long as I have, I do not doubt his desire to look into these cases that have transpired, and the consequences of any leakage of classified information from any of our National Laboratories, for the primary purpose of seeing to it that it does not happen again, if in fact it did happen, as well as to determine what did happen.

Senator SPECTER and Senator TORRICELLI have been looking into these recent cases, especially, as I said, the case of Wen Ho Lee at Los Alamos National Laboratory. As a result of that inquiry, Senator SPECTER is proposing what I think is a very important series of sensible amendments to this act we call FISA. I am pleased to cosponsor this bill, having been an original author of that legislation in 1978, along with Birch Bayh and others.

The initial bill with which Senator SPECTER approached me and others had a few areas where I thought it could be improved. I wish to publicly thank Senator SPECTER for agreeing to the changes I suggested in his proposed legislation.

One of the dilemmas that exists, in the debate about whether the Attorney General and the Justice Department and/or the FBI were reading from the same page in the hymnal on how to investigate the Wen Ho Lee case, is the issue of whether the FBI communicated enough information to the Attorney General so that, under the reading of the FISA law, the Attorney General could conclude that there was sufficient reason to get a search or electronic surveillance court order. There has been a little bit of disagreement, at a minimum, between the FBI and the Justice Department as to who said what, when, and what request was made when. It has led to a serious political controversy. I think it has also led, as a consequence, on both sides of the aisle, to some posturing and partisanship about a significant national security issue.

One of Senator SPECTER's most important ideas in this bill, one which is going to seem commonsensical to most Americans, is to make it clear that if something is of such consequence that the Director of the FBI believes there should be a FISA hearing and authority granted to allow the FBI to use invasive measures to eavesdrop upon conversations and/or get records, for example, from computer data and the like, if it is that important, the FBI Director can, under this new amendment to FISA, put that request in writing to the Attorney General and the Attorney General, whoever that may be, then has to personally sign off or not sign off, so we avoid this debate that is taking place now about whether second level people or third level people made the right judgment or wrong judgment, and whether or not there was any malfeasance.

So this is a very practical solution. If this legislation had been in place 3 years ago, 5 years ago, there would be no doubt as to what happened. Had the FBI said this is critical and this is national security, the Attorney General personally would have had to say yes or no. That is where the record is unclear in the Wen Ho Lee case. This bill would eliminate such doubt in future similar cases if and when they arise, and they surely will arise.

Section 2 of this bill permits the judge to consider the past activities of the target of an investigation—that is, the person upon whom they want to eavesdrop and/or whose records they want to secretly examine. So, for example, the Attorney General would be able to say, in a closed FISA hearing: Your Honor, not only do we think this is justified because of some current activity, but we can show you evidence that in 1991 they were engaged in this suspicious activity, in 1993 they were engaged in that, in 1995 they were engaged in this, therefore lending greater credibility to the argument that a FISA court order should be issued by the judge.

Again, in this Wen Ho Lee case, and other cases that Senator SPECTER has examined, there has been discussion of the fact that sometimes these folks had been under investigation before. Would that not lend greater weight to the need for this FISA request to be granted? So we clear that up in this legislation, rather than only allowing the target's current activity to be brought up.

Section 3 of this proposal requires the FISA court to be told if the target of a proposed search or surveillance has a relationship with a Federal law enforcement or intelligence agency. This came up in this case as well. The case is being investigated. It turns out at some point one of the persons in the past had been also a source for the FBI. The FBI had gone to this person and said: Will you be a source for us, looking into the possibility of some illegal activity? Then that very person becomes the target, and that very person is never able to tell, nor does the FBI or the CIA say: By the way, Your Honor, we were working with them. That is why they went ahead and did the following.

Up to now, when the Federal Government has asked for a FISA court judge to give this surveillance authority, it has not been required to say: By the way, Your Honor, this person in the past had worked with us as a source, as a person cooperating with us.

This is a new and useful protection for Americans, because the conduct that might seem suspicious could be a result of what the law enforcement agency had actually asked them to do. It seems only fair to the target to be able to have that information known to the judge.

This is typical of the Senator from Pennsylvania, that he looks out for individual rights as well as the interests of law enforcement.

There are several other interesting provisions in this bill, including some to improve relations between the FBI and other agencies, and I am sure there will be further refinements in this bill when it is considered by the Judiciary Committee. The important thing is that Senator SPECTER is working, I think effectively and in a bipartisan manner, to ensure that his inquiry into the Wen Ho Lee case leads to useful changes and not just to partisan recriminations. I compliment him on that, because the purpose of oversight is not only to find out who struck John but, in the national interest, to find the best way to prevent something such as this from happening again. So I compliment him and again thank him for acceding to the more than several changes I asked for in this legislation.

I think the amendments to existing law that this bill will enact are good amendments. I think America will be well served, and I would argue that the individual rights of Americans will be in no greater jeopardy after this passes than they ever were. They are protected; they will continue to be protected; and some of these changes will

even help to further protect the rights of individual Americans.

I yield the floor.

By Mr. CAMPBELL (for himself, Mr. LOTT, Mr. DASCHLE, Mr. CRAIG, Mr. BUNNING, Ms. SNOWE, Mr. CONRAD, Ms. LANDRIEU, Mr. KERREY, and Mr. GREGG):

S. 2090. A bill to amend the Internal Revenue Code of 1986 to impose a 1 year moratorium on certain diesel fuel excise taxes; to the Committee on Finance.

THE AMERICA'S TRANSPORTATION RECOVERY ACT OF 2000

Mr. CAMPBELL. Mr. President, today I am introducing America's Transportation Recovery Act of 2000 to address the skyrocketing prices of fuel which supports our Nation's truckers, farmers, public transportation, and other users. This bill would temporarily suspend the Federal excise tax on diesel fuel for 1 year, or until the price of crude oil is reduced to the December 31, 1999, price.

I am pleased to be joined by many of my colleagues and add as original cosponsors to this bill both the majority leader, Senator LOTT, and the minority leader, Senator DASCHLE, as well as Senators CRAIG, FEINSTEIN, CONRAD, BUNNING, LANDRIEU, and KERREY of Nebraska.

The current fuel crisis is an example of how a discussion leans toward economic factors and international price fixing rather than focusing on the daily effect on American people.

Early this week, as Members know, nearly 300 truck drivers drove from all over the east coast—in fact, some from as far away as Texas—to rally at the steps of the Capitol. Their cause was the increasing price of diesel fuel, which is increasing their costs to the point that many may go out of business.

I know the trucking life. I put myself through college by driving an 18-wheeler. Just last December, I renewed my CDC driver's license. Although I don't drive commercially anymore, it does keep me in touch with the working men and women in the trucking industry. Since I own a small rig, I know firsthand how the fuel crisis impacts those who depend on it because my fuel bills have doubled in the last year alone, as have theirs.

When private citizens give their time to come to Washington, the issue is not about profit margins, stock prices, or other abstract matters; it is because they are fighting for their lives. Long-distance drivers, as Members probably know, need between 200 and 400 gallons of diesel every 24 hours. Add that to truck payments, permits, insurance, upkeep, road fees, and the many other costs for independent trucking, and many are barely scraping by. It is no wonder the price increase is putting so many out of business. The only way they can survive is to pass it on to the consumer. Most of them cannot do that because the small independents are, more often than not, subcontracting to other firms.

At Tuesday's rally, one driver told me he knew of two men who had gone bankrupt in the last week alone. Any person viewing the television coverage of the rally could not help but be moved by the young couple living in their truck with two small children, both under the age of 3, because they could not make house payments. Yet another driver told me he had only $8 to his name and made it here for the rally.

Many people think this probably does not affect them. Think about this: About 95 percent or more of everything in America, everything we buy, comes by truck. It may also be on a train, airplane, or ship, but from the point of origin to the point of delivery is often by truck. These people don't want handouts; they don't want food stamps; they don't want to be on welfare; they want to work. If those rigs stop rolling, very simply, the Nation stops rolling, too.

These trucks don't run on solar energy, as was mentioned this morning in our Energy Committee hearing by Senator CRAIG, and they don't run on wind power; they run on diesel fuel. This problem extends to our farmers and ranchers. The increased costs to our farmers and ranchers, coupled with declining commodity prices, makes it very difficult for them to run a farm.

In past Congresses, we have had to pass emergency agriculture relief packages which have allowed the smaller producers to receive enough assistance to get by financially one more year. Now, along with the truckers in public transportation, farmers will probably see future diesel prices nearing $2 a gallon as they go into this year's planting season.

We cannot let this Nation come to a standstill because we are captive to foreign oil cartels. Not too many years ago, we fought a war in the Middle East to protect oil-producing countries from the Iraqi invasion. Our young men and women make up the bulk of the military might for many nations today. They put their lives on the line to protect some of the Arab countries against their own cousins, and now we are being repaid for our generosity by the rising cost of fuel from OPEC.

Certainly, if there is anyone who thinks there is not a national security component to being 55-percent dependent on foreign oil, they need to think again. The fact that we are too dependent on foreign oil and we currently have no national energy policy is a point of discussion for another day.

Right now, we face a crisis we need to do something about. That is why I and my colleagues are introducing this bill. This bill will temporarily suspend the excise tax on diesel fuel for 1 year, which is 24.4 cents a gallon, in an effort to ease the burdens on so many Americans based on our lack of a national long-term energy policy. This will help primarily truckers, farmers, and public transportation but in the long run will help everybody. While it does not address the long-term problem of our insufficient domestic oil supply, it will provide emergency temporary relief. I believe it is a modest and yet essential step.

At a time when our citizens are being shaken down by a foreign oil cartel and then again by rising taxes, it is somewhat offensive to go through the same kind of a shakedown twice. The Government is currently running a surplus, taking in more tax money than we are spending. We will have several years of surplus money, and I am sure we can afford to give a short-term break to the hard-working Americans who deliver our food and take our children to and from school as well as pick up our garbage.

This particular tax, as I understand, was never supposed to be permanent. It was imposed as a deficit reduction measure, and we simply do not have a deficit nor will we have in years to come. I urge my colleagues to support this legislation with prompt passage, to provide immediate relief for America's truckers, farmers, and other diesel fuel users.

I ask unanimous consent the bill be printed in the RECORD.

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

S. 2090

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 ''America's Transportation Recovery Act of 2000''.

SEC. 2. 1 YEAR MORATORIUM ON CERTAIN DIESEL FUEL EXCISE TAXES.

(a) IN GENERAL.—Section 4081(d) of the Internal Revenue Code of 1986 (relating to termination) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(2) by inserting after paragraph (1) the following new paragraph:

''(2) DIESEL FUEL.—The rate of tax specified in subsection (a)(2)(A)(iii) with respect to diesel fuel shall be—

''(A) zero during the 1 year period beginning on the date of the enactment of this paragraph, and

''(B) 4.3 cents per gallon after September 30, 2005.'', and

(3) by striking ''clauses (i) and (iii) of subsection (a)(2)(A)'' in paragraph (1) and inserting ''subsections (a)(2)(A)(i) and (a)(2)(A)(iii) with respect to kerosene''.

(b) CONFORMING AMENDMENTS.—

(1) Subclause (I) of section 4041(a)(1)(C)(iii) of the Internal Revenue Code of 1986 (relating to rate of tax on certain buses) is amended by striking ''shall be 7.3 cents per gallon (4.3 cents per gallon after September 30, 2005).'' and inserting ''shall be—

''(aa) zero during the 1 year period beginning on the date of the enactment of the American Transportation Recovery Act of 2000,

''(bb) 7.3 cents per gallon after the end of the 1 year period under item (aa), and before October 1, 2005, and

''(cc) 4.3 cents per gallon after September 30, 2005.''.

(2) Section 4081(c)(6) of such Code is amended by inserting ''(other than paragraph (5))'' after ''subsection''.

(3) Section 6412(a)(1) of such Code is amended—

(A) by inserting ''(the date of the enactment of the American Transportation Recovery Act of 2000, in the case of diesel fuel)'' after ''October 1, 2005'' both places it appears,

(B) by inserting ''(the date which is 6 months after the date of the enactment of such Act, in the case of diesel fuel) after ''March 31, 2006'' both places it appears, and

(C) by inserting ''(the date which is 3 months after the date of the enactment of such Act, in the case of diesel fuel) after ''January 1, 2006''.

(4) Section 6427(f)(4) of such Code is amended by inserting ''(during the 1 year period beginning on the date of the enactment of the American Transportation Recovery Act of 2000, in the case of diesel fuel)'' after ''September 30, 2007''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this section.

(2) DECREASE IN CRUDE OIL PRICES.—If the Secretary of Treasury determines that the average refiner acquisition costs for crude oil are equal to or less than such costs were on December 31, 1999, the amendments made by this section shall cease to take effect and the Internal Revenue Code shall be administered as if such amendments did not take effect.

By Mrs. FEINSTEIN:

S. 2091. A bill to amend the Act that authorized construction of the San Luis Unit of the Central Valley Project, California, to facilitate water transfers in the Central Valley Project; to the Committee on Energy and Natural Resources.

THE CONSTRUCTION OF THE SAN LUIS UNIT OF THE CENTRAL VALLEY PROJECTS

Mrs. FEINSTEIN. Mr. President, today I introduce a bill to amend the legislation that authorized construction of the San Luis Unit of the Central Valley Project in California. Enactment of this bill would allow water districts in the San Luis Unit of the Central Valley Project to supplement their federal water supplies with purchases of water from the State Water Project. At present, federal law prohibits the delivery of non-federal water to districts in the San Luis Unit until certain conditions are met.

The San Luis Unit is the last component created by federal law in the Central Valley Project, which is the largest Bureau of Reclamation project in the United States. Water service to districts in the San Luis Unit is often curtailed because of limitations imposed in pumping in the Sacramento-San Joaquin Delta.

It is customary for water districts in the San Luis Unit to supplement their supplies through purchases on the open market. However, current federal law prohibits them from purchasing supplies from the State Water Project and having these delivered over federal facilities. Making such deliveries is relatively easy because state and federal project conveyance facilities are interconnected. Prohibiting purchase of state water for delivery over federal facilities limits the opportunities available for San Luis Unit districts to obtain as large a supplemental supply as they would like.

Mr. President, this bill has already passed the House as H.R. 3077. It will impose no additional costs on the federal government. It contains provisions which assure that the additional water obtained by districts in the San Luis Unit cannot be used in a manner that would exacerbate current groundwater drainage problems. It is consistent with the provisions in the Central Valley Project Improvement Act that sought to encourage the exchange of water by willing sellers to provide additional supplies at reasonable cost to willing buyers. I urge the Senate to pass this bill.

By Mr. SCHUMER (for himself and Mr. KYL):

S. 2092. A bill to amend title 18, United States Code, to modify authorities relating to the use of pen registers and trap and trace devices, to modify provisions relating to fraud and related activities in connection with computers, and for other purposes; to the Committee on the Judiciary.

HIGH TECH CRIME BILL

Mr. SCHUMER. Mr. President, I rise today to introduce with my friend from Arizona, Senator KYL, a high tech crime bill aimed at combating computer crime. For the past nine months I have been discussing with law enforcement and computer crime experts how best to address the growing threat that computer crimes pose to our increasingly networked society.

Many of the best solutions are far-reaching and complex and will only be achieved through sustained and thoughtful hard work on an international level by both government and the private sector in the years ahead. There are, however, modes changes to existing laws that can be made now, which will serve as a significant first step in a much-needed effort to give law enforcement to tools they need to effectively fight cybercrime. The legislation that Senator KYL and I are introducing today will, among other things, make the following changes to existing law.

We must update our laws governing the use of what are called pen registers (which record the numbers dialed on a phone line) and trap and trace devices (which capture incoming electronic impulses that identify the originating number). These laws have become outdated and their procedures are too slow for the speed of criminals online.

Under current law, investigators must obtain a trap and trace order in each jurisdiction through which an electronic communication is made. Thus, for example, to trace on online communication between two terrorists that starts at a computer in New York, goes through a server in New Jersey, bounces off a computer in Wisconsin, and then ends in San Francisco, investigators may be forced to go successively to a court in each jurisdiction for an order permitting the trace (not to mention having to approach each provider along the way). In the recent Denial of Service attacks, hackers utilized dozens or even hundreds of ''zombie'' computers from which the attacks on specific sites were then launched. No doubt, these computers were located all over the country. and tracing them quickly under current law is therefore virtually impossible.

This legislation will amend current law to authorize the issuance of a single order to completely trace an online communication to its source, regardless of how many intermediate sites it passes through. Law enforcement must still meet the exact same burden to obtain such an order; the only difference is that they will not have to repeat this process over and over each time a communication passes to a new carrier in a different Jurisdiction.

One deficiency of the Computer Fraud and Abuse Act, 18 U.C.C. §1030, is its requirement of proof of damages in excess of $5,000. In several cases, prosecutors have found that while computer intruders had attempted to harm computers vital to our critical infrastructures, such as telecommunications and financial services, damages of $5,000 could not be proven. Nevertheless, these intrusions pose a great risk of harm to our country and must be prosecuted, punished, and deterred.

The Schumer-Kyl bill will unambiguously permit federal jurisdiction at the outset of an unauthorized intrusion into critical infrastructure systems rather than having investigators wait for any damage assessment. Crimes that exceed the $5,000 limit will be prosecuted as felonies, while crimes below that amount will be defined as misdemeanors. The bill will also clarify that a $5,000 loss resulting from a computer attack may include the costs of responding to the offense, conducting a damage assessment, restoring a system to its original condition, and any lost revenue or costs incurred as a result of an interruption in service. The $5,000 requirement should not serve as a barrier to the prosecution of serious computer criminals who threaten our country's networks.

This legislation will also modify a directive to the sentencing commission contained in the Antiterrorism and Effective Death Penalty Act of 1999, which required a mandatory minimum sentence of six months' imprisonment for certain violations of section 1030. Computer intrusions that violate the statute vary in their severity and maliciousness. All violations should be punished, but under the current regime the mandatory imprisonment applies to some misdemeanor charges, even where the attack caused no damage. As a result, some prosecutors have declined to bring cases, knowing that the result would be mandatory imprisonment. We should insure that federal prosecutors are bringing cases under section 1030, but we also should insure that the sentences being meted out fit the crime.

Often the most technologically savvy individuals are juveniles who have grown up with computers always at their fingertips. Unfortunately, certain juveniles are committing the most serious computer crimes and wreaking havoc on our critical infrastructures. For example, one juvenile hacker caused an airport in Worcester, Massachusetts to shut down for over six hours when its telecommunications connections were brought down. Similarly, two California teenagers broke into sensitive military computers, including those at Lawrence Livermore National Laboratory and the U.S. Air Force.

As a longer term strategy, we need to do a better job of teaching our children from a very young age that, like anywhere else, certain conduct on the Internet is wrong and illegal. But we also need to send a clear message that crimes on the Internet will have real consequences. This legislation will amend 18 U.S.C. §1030 to give federal law enforcement authorities the power to investigate and prosecute juvenile offenders of computer crimes in appropriate cases. The bill will make juveniles fifteen years of age or older who commit the most serious violations of section 1030 eligible for federal prosecution in cases where the Attorney General certifies that such prosecution is appropriate. In conjunction with the elimination of the six-month mandatory minimum, this legislation will provide a balanced, measured approach to juvenile hacking crimes.

Again, these are just the first steps that should be taken in a very long battle against cybercrime that many of us will wage for years to come. And while we fight computer crime by modifying our criminal laws, we also should seek concomitant ways to fully protect the fundamental rights of innocent individuals on the Internet.

I want to thank Senator KYL for joining me in introducing this bill. As chairman of the Subcommittee on Technology, Terrorism, and Government Information, I know that he cares deeply about these issues and I look forward to working with him on this commonsense, bipartisan legislation.●

By Mr. DOMENICI (for himself, Mr. BINGAMAN, and Mr. BAUCUS):

S. 2093. A bill to amend the Transportation Equity Act for the 21st Century to ensure that full obligation authority is provided for the Indian reservation roads program; to the Committee on Environment and Public Works.

THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY AND INDIAN RESERVATION ROADS

● Mr. DOMENICI. Mr. President, I am pleased today to be joined by my colleagues JEFF BINGAMAN and MAX BAUCUS in introducing legislation to preserve precious dollars allocated by the Congress and the President for construction of Indian reservation roads.

There is no doubt that the Indian reservation road system is the poorest in our nation, and every federal dollar allocated for improving this situation should be directed to our nation's Indian reservations. The lack of adequate roads and bridges is a chronic problem on Indian reservations, where unemployment averages 35 percent and more than half of American Indian live in hard poverty.

Since 1982, when my Senate amendment added Indian roads to our federal highway trust fund accounts, all funds allocated for Indian roads have been used for that purpose. In ISTEA, which preceeded the enactment of the Transportation Efficiency Act for the 21st Century (TEA–21), the Indian Reservation Roads (IRR) program reached a level of $191 million per year.

Many of us in Congress worked hard to increase this IRR funding to $225 million in the first year of TEA–21 (FY 1998), and $275 million each year thereafter, through FY 2003. Unfortunately, a little noticed provision for Federal Lands Highways, placing an ''obligation limitation'' on the IRR program, has resulted in the transfer of funds intended for Indian reservations to be transferred to the 50 states.

In FY 1998, the amount deducted for this transfer to states from the IRR program was $24.2 million. In FY 1999, it was $31.7 million; and in FY 2000, the obligation limitation resulted in a loss of $34.9 million that could have been used for Indian reservation road building.

In all previous enacting legislation since 1982, federal funds intended for IRR programs have been used for IRR purposes. Only in TEA–21 was this changed due to the application of the obligation limitation to Federal Lands Highways and the IRR program.

Our bill will simply exclude the IRR program from this annual deduction that has totaled, in the past three years, more than $90 million. This money, while helpful to many states, is more badly needed on Indian reservations and should be preserved for that purpose. By excluding the IRR program from this obligation limitation provision, we will be increasing federal funds for Indian roads without increasing the cost of the total program. We will be focusing the funds for Indian roads on Indian roads, as we have intended since the IRR program first became part of our federal highway trust fund in 1982.

I urge my colleagues to join us in redirecting funds intended for Indian road construction to be dedicated to that purpose.●

Mr. BINGAMAN. Mr. President, I am pleased to join today with my good friend and colleague from New Mexico, Senator DOMENICI, to introduce this bill along with Senator BAUCUS. This bill assures that our Native American communities have the funding they need for critical transportation projects. Our bill will fund the Indian Reservation Road Program for the next three years with at least $275 million per year, the full amount authorized by Congress.

Mr. President, since I came to the Senate in 1983, I've worked hard to promote economic development and create new jobs for my state of New Mexico. One thing I learned very quickly is that you can't expect to attract new industry unless you have the basic infrastructure to support residential and commercial needs. The most important infrastructure needs include transportation, power, communications, water and sewers. Without these basic services at affordable rates, opportunities to create good jobs will simply not develop.

Today our country is fortunate to have one of the strongest economies in history. Our recent advances in job creation and economic growth are accomplishments that all Americans should be proud of. Unfortunately, as many of us know, some sectors of our nation continue to lag behind the wave of economic prosperity that has swept the nation. In particular, I remain concerned about our Native American communities. Unemployment rates today in Indian Country frequently top 30, 40, and even 50 percent. Mr. President, the nation must not stand by while Indian Country is literally being left behind. Perhaps more than any other community in America, the Tribes and Alaska Native Villages suffer from inadequate infrastructure.

This year I am pleased to be working with President Clinton, Senators DASCHLE, DOMENICI, and others on a number of new programs and initiatives to help the Native American Communities enjoy the same level of economic prosperity as the rest of America. In this respect, the Tribes are no different than the rest of America—to promote their economic development basic infrastructure must first be in place. The President's initiative recognizes this fact. The bill we are introducing today addresses one element of that initiative—the need for basic transportation, including roads and transit. This bill will help promote transportation on every reservation in America by fully funding the Indian Reservation Roads Program.

First established in 1928, the Indian Reservation Roads program is one of the ways America meets its special responsibility to help Native Americans achieve self sufficiency and self determination. The goal of the Indian Reservation Roads program is to provide safe and economic means of transportation throughout Indian Country. Over the years, the program has been reauthorized and modified to help meet the Tribes' needs for basic transportation infrastructure. Most recently, the program was reauthorized for six years in 1998. The program is playing a critical role in economic development, self-determination, and employment of Native Americans in 33 states, including the Alaska Native Villages.

Currently, the reservation roads system comprises 25,700 miles of BIA- and Tribal-owned roads and 25,600 miles of state, county and local roads. There

are also 740 bridges on the system and even one ferry boat in the state of Washington. These public roads and transit system are, of course, used by everyone, not just Native Americans. To give the Senate some perspective of the magnitude of this system, the 51,000 total miles on the Indian Reservation Road system are more miles of public roads than there are in 15 states. If you consider only roads on the Federal Aid Highway system, the Indian road system has more miles than the state of California.

Unfortunately, Mr. President, many of the roads on the IRR system are among the worst in the nation. Of the 25,700 miles owned by BIA and Tribes, two thirds or 18,000 miles are not paved and 12,000 are unimproved dirt roads. Currently, 190 of the 740 bridges are listed as deficient, presenting serious safety concerns. The estimated backlog in road and bridge construction alone is $4 billion, and that doesn't even start to include transit needs. When roads are as bad as these, people can't get to work, children in school buses can't get to school, and seniors can't get to their doctors or hospitals.

Mr. President, in 1998, under the able guidance of the late Senator Chafee and Senator BAUCUS, Congress produced the Transportation Equity Act for the Twenty-First Century, or TEA–21. Through its many transportation programs, TEA–21 has already had major impacts on transportation, both highways and transit, in my state and around the country. The bill increased funding for state highway programs by an average of fifty percent above the levels in the previous six-year bill, ISTEA. Some states, because of population growth, are seeing increases of seventy, eighty and even ninety percent over the levels in ISTEA.

Unfortunately, funding for the Indian Reservation Roads Program did not receive the same magnitude of increase as TEA–21 provided for the states.

The full impact of TEA–21 on the Indian Road program has only recently become clear. In the last year of ISTEA, the program was funded at nearly $220 million. Now, under TEA–21, the authorization level was increased to $275 million, but for the first time, the program was subject to an obligation limitation, which reduces the funding this year by $35 million.

Thus, despite the massive infusion of transportation funding to the states, funding for Indian Country was inexplicably left behind. While the states averaged a fifty percent increase in annual highway funding, the tribes got less than half that—only about a twenty percent increase. Mr. President, though TEA–21 strived for equity in funding, we fell short of equity when it came to Native Americans.

Our bill is very simple. It provides a very narrow exemption to the obligation limitation in TEA–21 to assure that the full authorized amount, $275 million, is available to help meet critical transportation needs in Indian Country. The exemption would only apply to the remaining three years of TEA–21. A number of other programs in TEA–21 already have this exemption, and I believe that Congress should make good on its commitment to the tribes to provide the Indian Road Program the full amount authorized. This increase in funding would bring the program roughly up to parity with the increase that the state highway programs are already receiving in TEA–21.

Mr. President, I fully appreciate that a few Senators may have concerns about changing any aspect of the funding distribution in TEA–21. However, I believe a strong argument can be made in this unique case. First, nobody can dispute the incredible needs for transportation infrastructure in Indian Country, which suffers, as I said, a backlog of at least $4 billion. Second, the effect of our bill on all other highway programs in TEA–21, including state highway funding, is truly minimal; its impact amounts to only about one-tenth of one percent. Third, this is an issue of basic fairness. This change would provide both the states and the IRR roughly the same 50 percent increase in their transportation funding above the levels in ISTEA. And finally, I believe we made a commitment to the tribes when we authorized funding of $275 million. Congress should make good on that commitment.

In closing, I look forward to working with the distinguished Chairman of the Environment and Public Works Committee, Senator SMITH, and the Ranking Member, Senator BAUCUS, as well as with the Chairman of the Transportation and Infrastructure Subcommittee, Senator VOINOVICH, to correct this serious inequity in what is otherwise an outstanding transportation bill.

Mr. President, state highway departments recognize how important this program is to both the tribes and the states. I recently received a letter from Mr. Pete K. Rahn, Secretary of the New Mexico State Highway and Transportation Department. In his letter, Secretary Rahn indicates his support for this bill. He goes on to say that the department recognizes that the bill will result in a slight reduction in the federal funds, which flow directly to the state of New Mexico. However, he continues, the department also recognizes that the benefit realized by the state as a whole, by the substantial increase in funds to the state's tribes for road improvements, far outweigh this reduction. I want to thank Secretary Rahn for expressing his support for this bill.

I have a similar letter addressed to Senator BAUCUS from Connie Niva, Chair of the State of Washington Transportation Commission, along with a resolution in support of lifting the obligation limitation from the Indian Reservation Road Program.

Mr. President, I ask unanimous consent that the letter from Secretary Rahn, the letter and a resolution from the Washington Transportation Commission, letters from Mr. Kelsey A. Begaye, President of the Navajo Nation, and Mr. David McKinney, Executive Director of the Intertribal Transportation Association, and a resolution from the Affiliated Tribes of Northwest Indians be included in the RECORD.

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

NEW MEXICO STATE HIGHWAY AND TRANSPORTATION DEPARTMENT,
Santa Fe, NM, February 21, 2000.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: The purpose of this letter is to indicate my support for the bill that you and Senators Domenici and Baucus have introduced to exempt the Indian Reservation Road Fund from the obligation limitation by amending section 1102(b) of TEA–21 to include the IRR in the list of exceptions.

We recognize that this will result in a slight reduction in the federal funds, which will flow directly to the state of New Mexico. However, we also recognize that the benefit realized by the state as a whole, by the substantial increase in funds to the state's tribes for road improvements, far outweighs this reduction.

If you have any questions, or would like clarification on these matters please contact Richard Montoya of my staff.

Sincerely,

PETE K. RAHN,
Secretary.

STATE OF WASHINGTON,
TRANSPORTATION COMMISSION,
Olympia, WA, February 18, 2000.

Hon. MAX BAUCUS,
Ranking Minority Member, Senate Environment and Public Works Committee, Washington, DC.

DEAR SENATOR BAUCUS: The Washington State Transportation Commission has adopted enclosed Resolution No. 600 supporting Resolution #99–23 of the Affiliated Tribes of Northwest Indians (ATNI). The Commission joins with ATNI in recommending that the United States Congress remove the obligation ceiling limitation requirement of TEA–21 from the Indian Reservation Roads (IRR) Program.

This is an issue of vital concern to all tribes of Washington State, and it is an issue of fundamental fairness. When Congress enacted the Transportation Equity Act for the 21st Century (TEA–21) on June 9, 1998, it changes the way in which obligation limits were set for the IRR Program. Instead of having limits set at 100% of authorized levels as they were under previous highway acts, limitation for the IRR Program is now calculated similar to states. For tribes, the change has removed $90 million from their total authorization in the past three years, and an additional $120 million is expected to be lost during the remainder of the authorization period. While the total authorization for the state of Washington is similarly reduced, states have the opportunity to carry over unused authorizations to subsequent years. On the other hand, the authorized amounts deducted from the IRR Program are redistributed to states rather than back to the program. For the state of Washington, there is a net outflow of funding. More is lost from the IRR Program than the state receives back in redistributed authorization.

Thank you for considering this request of such great impact to the tribes of our state. If you have any questions, please call me.

Sincerely,

CONNIE NIVA,
Chair.

RESOLUTION NO. 600 OF THE WASHINGTON STATE TRANSPORTATION COMMISSION

Whereas, the Washington State Transportation Commission serves as the board of directors of the Washington State Department of Transportation, providing oversight to ensure the Department delivers quality transportation facilities and services in a cost-effective manner; and,

Whereas, the Washington State Transportation Commission also proposes policies, plans and funding to the legislature which will promote a balanced, inter-modal transportation system which moves people and goods safely and efficiently; and,

Whereas, it is a policy objective of the Washington State Transportation Commission to cooperate and coordinate with public and private transportation partners so that systems work together cost effectively; and,

Whereas, there are 28 Indian tribal governments recognized by the federal government within the state of Washington; and,

Whereas, these tribal governments develop and improve the road systems for their communities with funding provided under the federal Indian Reservation Roads program; and,

Whereas, many state highways and local roads are linked directly to tribal road systems, providing access to Indian reservations, and recognized by the Bureau of Indian Affairs as public roads within the Indian Reservation Roads Program; and,

Whereas, it has been brought to the attention of the Commission that under the Intermodal Surface Transportation Efficiency Act of 1991, funding apportioned from the Highway Trust Fund to the Indian Reservation Roads Program was not subject to a limitation on obligations as is the case with distributions to states from the fund; and,

Whereas, the Commission further understands that funding authorized under the Transportation Equity Act for the 21st Century now subjects distributions to the Indian Reservation Roads Program to a limitation on obligations; and,

Whereas, as a result of this change in law, some $90 million in obligation authority vitally needed to reverse the deplorable condition of Indian Reservation Roads has been lost to Indian tribal governments than would otherwise have been distributed; and,

Whereas, this change in law adversely impacts the Indian Reservation Roads Program within the state of Washington; and,

Whereas, the Affiliated Tribes of Northwest Indians has by resolution, recommended removal of the obligation ceiling limitation requirement for the Indian Reservation Roads Program.

Now, therefore, be it *Resolved*, That Washington State Transportation Commission joins with the Affiliated Tribes of Northwest Indians in recommending removal of the obligation ceiling limitation requirement of TEA–21 from the Indian Reservation Roads Program.

Now, therefore, be it finally *Resolved*, That the Washington State Transportation Commission supports Resolution #99–23 of the Affiliated Tribes of Northwest Indians, adopted February 10, 1999, at their 1999 Winter Conference in Portland, Oregon.

Adopted this 17th day of February, 2000.

THE NAVAJO NATION,
Window Rock, AZ, February 23, 2000.

Re proposed legislation for the indian reservations roads program.

Hon JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: I am submitting this letter on behalf of the Navajo Nation in support of your efforts to assist the Navajo Nation and Indian Country regarding the Indian Reservation Roads (IRR) Program. Particularly, the effort to correct the TEA–21, which has imposed an obligation limitation on the IRR Program. The obligation limitation would further underfund an important element in economic and community development on the Navajo Nation and Indian Country.

I thank you in advance for your continued support on issues affecting the Navajo Nation and Native Americans across the United States. If you have any additional questions on the IRR Program, please contact Mr. Paulson Chaco, Director of Navajo Nation Department of Transportation.

Sincerely,

KELSEY A. BEGAYE,
President.

INTERTRIBAL TRANSPORTATION ASSOCIATION, NATIONAL HEADQUARTERS,
Stillwater, OK, February 18, 2000.

Subject: Supporting Senator Bingaman's proposed legislation for the Indian reservation roads (IRR) program.

Mr. DAN ALPERT,
Office of Senator Bingaman,
Washington, DC.

The Intertribal Transportation Association is in support of Senator Bingaman's proposed Legislation that will assure that the Indian Reservation Roads (IRR) program is funded at the fully authorized level for the remaining three years of TEA–21.

Sincerely,

DAVID MCKINNEY,
Executive Director.

RESOLUTION NO. 99–23 OF THE AFFILIATED TRIBES OF NORTHWEST INDIANS

Whereas, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific Tribal concerns; and

Whereas, the Affiliated Tribes of Northwest Indians is a regional organization comprised of American Indians in the states of Washington, Idaho, Oregon, Montana, Nevada, northern California, and Alaska; and

Whereas, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of Affiliated Tribes of Northwest Indians; and

Whereas, transportation impacts virtually every aspect of a community, such as economic development, education, healthcare, travel, tourism, planning, land use and employment opportunities; and

Whereas, the Affiliated Tribes of Northwest Indians is aware that the Transportation Equity Act for the 21st Century (TEA–21) has been signed into law by the U.S. President and limits the obligation of Indian Reservation Road (IRR) funding to 90%; and

Whereas, the obligation ceiling limitation thus far has eliminated over $58 million from the IRR program which will lose another $31 million if the limitation is not removed in the FY 2000 appropriations Act; and

Whereas, this limitation is inconsistent with all prior transportation Acts, and seriously impacts the ability of Indian Tribes and the Bureau of Indian Affairs to provide the American Indian people with safe and decent access to health care, education, employment, tourism, and economic development; now

Therefore be it *resolved*, the Affiliated Tribes of Northwest Indians strongly recommends the U.S. Congress remove the obligation limitation contained in TEA–21 for the IRR program in its deliberations for the FY 2000 and subsequent Department of Transportation Appropriations Acts.

By Mr. KENNEDY:

S. 2094. A bill to amend the Energy Policy and Conservation Act to ensure that petroleum importers, refiners, and wholesalers accumulate minimally adequate supplies of home heating oil to meet reasonably foreseeable needs in the northeastern states; to the Committee on Energy and Natural Resources.

STABLE OIL SUPPLY (SOS) HOME HEATING ACT

• Mr. KENNEDY. 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. 2094

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 ''Stable Oil Supply (SOS) Home Heating Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) more than 35 percent of families in the northeastern United States depend on oil to heat their homes each winter, and most of those families have no practical alternative to paying the going price for heating oil or seeking public or private assistance to pay for heating oil;

(2) consumers experienced sudden and dramatic increases in prices for home heating oil during the winters of 1989, 1996, and 1999, causing hardship to families and other people of the United States, including people on fixed and low incomes, people living in rural areas, the elderly, farmers, truckers and the driving public, and governments that pay home heating oil bills;

(3) a substantial part of each sudden increase in home heating oil prices has been caused by vastly inadequate supplies of home heating oil accumulated during the summer, fall, and winter months by importers, refiners, and wholesalers; and

(4) increased stability in home heating oil prices is necessary to maintain the economic vitality of the Northeast.

(b) PURPOSE.—The purpose of this Act is to ensure that minimally adequate stocks of home heating oil are accumulated in the Northeast to meet reasonably foreseeable demand during each winter while protecting consumers from sudden increases in the price of home heating oil.

SEC. 3. DEFINITIONS.

Section 152 of the Energy Policy and Conservation Act (15 U.S.C. 6232) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11) as paragraphs (3), (4), (5), (8), (9), (10), (11), (12), (13), and (14);

(2) by inserting after paragraph (1) the following:

''(2) HOME HEATING OIL.—

''(A) IN GENERAL.—The term 'home heating oil' means distillate fuel oil.

''(B) INCLUSIONS.—The term 'home heating oil' includes No. 1 and No. 2 diesel and fuel oils.'';

(3) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

''(6) NORTHEAST.—The term 'Northeast' means the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and New Jersey.

''(7) PRIMARY HEATING OIL INVENTORY.—

''(A) IN GENERAL.—The term 'primary heating oil inventory' means a heating oil inventory held by an importer, refiner, or wholesaler.

''(B) EXCLUSION.—The term 'primary heating oil inventory' does not include any inventory held by a retailer for the direct sale to an end user of home heating oil.''; and

(4) by adding at the end the following:

''(15) WHOLESALER.—The term 'wholesaler' means any person that—

''(A) owns, operates, leases, or otherwise controls a bulk terminal having a total petroleum storage capacity of 50,000 barrels or more;

''(B) stores home heating oil; and

''(C)(i) resells petroleum products to retail businesses that market the petroleum products to end users; or

''(ii) receives petroleum products by tanker, barge, or pipeline.

''(16) WINTER SEASON.—The term 'winter season' means the months of November through March.''.

SEC. 4. HOME HEATING OIL RESERVE FOR THE NORTHEAST.

Part B of the Energy Policy and Conservation Act (15 U.S.C. 6231 et seq.) is amended by inserting after section 157 the following:

''SEC. 157A. VOLUNTARY PLANS FOR HOME HEATING OIL RESERVE.

''(a) SUBMISSION AND DEVELOPMENT OF VOLUNTARY PLANS.—Importers, refiners, and wholesalers that hold primary heating oil inventories for sale to markets in the Northeast, acting individually or in 1 or more groups, should, for the purposes of ensuring stability in energy fuel markets and protecting consumers from dramatic swings in price—

''(1) develop voluntary plans, in consultation with interested individuals from nonprofit organizations and the public and private sectors, to maintain readily available minimum product inventories of heating oil in the Northeast, possibly in combination with the hedging of future inventories, to mitigate the risk of severe price increases to consumers and to reduce adverse impacts on the regional and national economies; and

''(2) submit the voluntary plans to the Secretary not later than 180 days after the date of enactment of this section.

''(b) CERTIFICATION AND REPORT.—

''(1) IN GENERAL.—If the Secretary determines that a plan submitted under subsection (a)—

''(A) is likely to achieve the purposes of this Act, the Secretary shall so certify, and the importer, refiner, or wholesaler shall implement the plan; or

''(B) is not likely to achieve the purposes of this section, the Secretary shall issue a statement explaining why the plan does not appear likely to achieve those purposes.

''(2) REPORT.—Not later than 240 days after the date of enactment of this section, the Secretary shall submit to Congress a report describing the findings and reasons for a certification or failure to certify a plan under this subsection.

''(c) DEFENSE TO ANTITRUST ACTIONS.—

''(1) IN GENERAL.—There shall be available as a defense to a civil or criminal action brought under the antitrust laws (or any similar State law) with respect to an action taken to develop and carry out a voluntary plan under subsection (a) by an importer, refiner, or wholesaler the fact that—

''(A) the action is taken—

''(i) in the course of developing the voluntary plan; and

''(ii) in the course of carrying out the voluntary plan, if the voluntary plan is certified by the Secretary under subsection (b);

''(B) the action is not taken for the purpose of injuring competition; and

''(C) the importer, refiner, or wholesaler is in compliance with this section.

''(2) LIMITATION.—Except in the case of an action taken to develop a voluntary plan, the defense provided in paragraph (1) shall be available only if the person asserting the defense demonstrates that the action was specified in, or within the reasonable contemplation of, a voluntary plan certified by the Secretary.

''(3) BURDEN OF PROOF.—A person interposing the defense under paragraph (1) shall have the burden of proof, except that the burden shall be on the person against which the defense is asserted with respect to whether an action is taken for the purpose of injuring competition.

''(d) REPORT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit to Congress a report describing the results of the implementation of all voluntary plans certified under this section, including specific compliance by importers, refiners, and wholesalers that serve the Northeast market with respect to the adequacy of the home heating oil supply.

''(e) PLAN ADOPTED BY SECRETARY.—If, by the date that is 240 days after the date of enactment of this section, for each importer, refiner, and wholesaler in the Northeast, a certified plan is not implemented in accordance with subsection (b), the Secretary shall adopt and implement a plan in accordance with section 157B.

''SEC. 157B. HOME HEATING OIL RESERVE FOR THE NORTHEAST.

''(a) ESTABLISHMENT OF PRIVATE HOME HEATING OIL RESERVES.—If a certified plan described in section 157A is not implemented in accordance with that section for each importer, refiner, and wholesaler that stores home heating oil for sale in the Northeast, not later than 300 days after the date of enactment of this section, the Secretary shall establish a private home heating oil reserve for the Northeast in accordance with this section.

''(b) INVENTORY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall periodically monitor supply levels as necessary to ensure that each importer, refiner, and wholesaler of home heating oil that stores home heating oil for sale in the Northeast shall have in inventory and readily available to refiners in the Northeast a quantity of home heating oil that the Secretary determines is equal to the quantity that each importer, refiner, or wholesaler may reasonably be expected to require to supply the needs of its customers during the present or following winter season without subjecting consumers to sudden price increases that are due in part to inadequate buildup of heating oil inventories.

''(2) LIMITATION.—The Secretary shall not require any importer, refiner, or wholesaler to store any product under paragraph (1) in a quantity greater than 95 percent of the average storage capacity for home heating oil reasonably available to the importer, refiner, or wholesaler during the preceding 2 years.

''(3) INCREASED INVENTORY.—If the Secretary determines that an inventory of home heating oil does not meet the requirement of under paragraph (1), the Secretary may direct an importer, refiner, or wholesaler to acquire, store, and maintain in readily available inventories any quantity of home heating oil that the Secretary determines to be necessary to supply heating oil needs in the Northeast without subjecting consumers to sudden price increases that are due in part to inadequate buildup of heating oil inventories.

''(4) REGULATIONS.—As soon as practicable after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that—

''(A) authorize civil penalties to enforce this section; and

''(B) provide that the Secretary shall cooperate with State energy authorities in carrying out this section.

''(c) EXCESS INVENTORY.—At the end of each winter season, the Administrator of the Environmental Protection Agency shall take appropriate and reasonable action to enable importers, refiners, and wholesalers of home heating oil to sell any remaining excess inventories of heating oil that the importers, refiners, and wholesalers may have.

''(d) IMPLEMENTATION.—In implementing this section, the Secretary shall ensure, to the maximum extent practicable, that the manner of implementation supports the maintenance of an economically sound and competitive petroleum industry.

''(e) REPORT.—Not later than 1 year after the implementation of a plan under this section, the Secretary shall submit to Congress a report describing the results of the implementation of the plan, including specific compliance by importers, refiners, and wholesalers in the Northeast with respect to home heating oil supply buildup.''.●

By Mrs. FEINSTEIN:

S. 2095. A bill to provide for the safety of migrant seasonal agricultural workers; to the Committee on Health, Education, Labor, and Pensions.

THE FARM WORKER TRANSPORTATION SAFETY ACT

Mrs. FEINSTEIN. Mr. President. I rise to introduce legislation to give farm workers what so many of us take for granted—a safe commute to work.

Today, many farm workers are still being transported to fields in crowded vans lacking basic safety equipment. There are reports of vans originally designed for 10 people, transporting up to 20 passengers with no access to seat belts. People should not have to put their lives at risk to travel to a job site.

According to the latest United States Department of Labor statistics, farm occupations have the second highest work-related fatalities, and 45 percent of these fatalities are vehicular related.

Nationally, 533 farm workers were killed in transportation incidents between 1994 and 1998. And farm workers are 4 times more likely to be killed in on-the-job highway traffic accidents than a typical worker.

The following are just a few of the recent accidents involving farm workers traveling in vehicles without seatbelts.

Just two weeks ago, on February 10, 14 people were injured when a car ran a stop sign and crashed into a van carrying farm workers in Tulare County, California. Authorities cited the driver of the van three months ago for illegally transporting workers—but at the time of the accident, he still had not received certification to transport workers.

On September 10, 1999, 13 people were injured south of Fresno when an unlicensed van driver failed to stop for a posted stop sign and collided with another car. The van had seven seats—all with seatbelts—but four passengers were seated on the floor.

On August 9, 1999, thirteen tomato field workers were killed when the van transporting them home slammed into a tractor-trailer truck in rural southwest Fresno County, California. Most of the victims in this horrific crash rode on three bare benches in the back of the van.

On July 23, 1999, one man was killed and more than 40 people injured when a big-rig crashed into a Greyhound bus and a farm worker van on Highway 99 in Tulare County, California. The victim rode in the farm-labor van, packed with 19 other passengers.

This is a national problem which calls for Federal action. Farm workers live all over the country, and have work that frequently carries them across state lines.

Unfortunately, existing Federal laws leave farm workers inadequately protected.

Regulations issued under the Migrant and Season Agricultural Worker Protection Act (MSPA) prohibit transport of migrant workers unless the vehicles have adequate service brakes, parking brakes, steering mechanisms, windshield wipers, tires, and review mirrors. But, believe it or not, the law does not mandate seating positions or an operational seatbelt for each passenger.

The Farm Worker Safety Transportation Act of 2000 will make it illegal to transport farm workers unless each passenger has a designated seat with an operational seatbelt. This applies no matter how the vans are purchased or modified.

Federal law now requires vans manufactured with up to 10 passenger seats to have operational seatbelts for each seat. However, after a new van is sold to its first owner, the owner can legally remove the rear seats and install bare benches. Similarly, Federal law permits an individual to purchase a van with an empty cargo hold and install benches without seatbelts.

The legislation will direct the Department of Transportation to develop interim seat and seatbelt standards for vans or trucks without seats that are converted for the transport of farm workers.

After a seven-year transition period, the commercial vehicles that transport farm workers will have to meet the same seat and seatbelt standards as a new vehicles.

A farm worker should have access to a safe commute whether he or she is traveling to a field in Arizona, California, Washington, or Florida.

I look forward to working with my colleagues to enact this sensible, practical legislation that will save lives.

By Mr. BAYH:

S. 2096. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit to long-term caregivers; to the Committee on Finance.

THE CAREGIVERS ASSISTANCE AND RESOURCES ENHANCEMENT (CARE) TAX CREDIT ACT

Mr. BAYH. Mr. President, America is aging—we are all living longer and generally healthier and more productive lives. In the next 30 years, the number of Americans over the age of 65 will double. For most Americans this is good news. However, for some families aging comes with unique financial obstacles. More and more middle income families are forced to choose between providing educational expenses for their children, saving for their own retirement, and providing medical care for their parents and grandparents. When a loved one becomes ill and needs to be cared for nothing is more challenging then deciding how the care they need should be provided. Today, I rise to make that decision easier and to strengthen one option for long-term care—caring for a loved one at home.

The bill I introduce today, the Care Assistance and Resource Enhancement Tax Credit, provides caregivers with a $3,000 tax credit for the services they provide. I am introducing this bill in order to encourage families to take care of their loved ones, make it more affordable for seniors to stay at home and receive the care they need, and save the government billions of dollars currently spent on institutional care. Through this tax credit we accomplish all that while emphasizing family values.

There are over 22 million people providing unpaid help with personal needs or household chores to a relative or friend who is at least 50 years old. In Indiana alone, there are 568,300 caregivers. They do this work without any compensation. They do not send the government a bill for their services or get reimbursed for their expenses by a private company. They do it because they care. As a result of their compassion, the government saves billions of dollars. For example, the average cost of a nursing home is $46,000 a year. The government spent approximately $32 billion in formal home health care costs and $83 billion in nursing home costs. If you add up all the private sector and government spending on long-term care it is dwarfed by the amount families spend caring for loved ones in their homes. As a study published by the Alzheimers Association indicated, caregivers provide $196 billion worth of care a year.

I held a field hearing in my state, Indiana, last August to discuss ways to make long-term care more affordable. At this hearing I heard from three caregivers who are providing care for a family member. Mrs. Linda McKinstry takes care of her husband who had been diagnosed with Alzheimers two years ago. Mr. and Mrs. Cahee are caregivers for Mr. Cahee's mother who also has Alzheimers. They all echoed the need for financial relief and support services. They spoke of the financial and emotional stress associated with taking care of a loved one. After hearing their stories, it became clear that their efforts are truly heroic and we should be doing all that we can at the federal level to provide the support they need to keep their families together.

At a time when people are becoming skeptical of the government, Congress needs to help people meet the challenges they face in their daily lives. This tax credit does that. It will serve 1.2 million older Americans, over 500,000 non-elderly adults, and approximately 250,000 children a year. I encourage you to take notice of the work done by caregivers and join me in supporting this legislation and giving caregivers the gratitude they deserve.

Thank you, Mr. President.

By Mr. MURKOWSKI (for himself and Ms. LANDRIEU):

S. 2098. A bill to facilitate the transition to more competitive and efficient electric power markets, and to ensure electric reliability; to the Committee on Energy and Natural Resources.

ELECTRIC DEREGULATION LEGISLATION

Mr. MURKOWSKI. Mr. President, I rise to introduce an electric deregulation bill, which it is my sincere hope will reduce the burdens on our electric ratepayers and consumers throughout this country by promoting competition and reliability in the electric power industry.

First, let me say competition isn't the goal of the legislation. Instead, competition is the means to achieve the goal of assuring customers reliable and reasonably-priced electricity.

We have seen the benefits of competition in other industries such as natural gas, telecommunications, trucking, and even in the airlines. In each case, competition reduced prices. That was the objective—to enhance supply and to encourage innovation.

There is every reason to expect that competition in the electric industry will benefit consumers. The Department of Energy agrees. It is projecting consumer savings in the area of $20 billion per year. That is not hay. That would be a significant savings to the consumers in this country, particularly important at a time when we are seeing spiking rates in oil, high gasoline prices, high heating oil prices, and high diesel fuel prices, as noted by the trucking industry that recently demonstrated here in Washington, DC. Heating oil prices are spiraling in the Northeast corridor.

We are talking about, through electric deregulation, trying to bring about consumer savings of $20 billion per year or more. Progress has already been made in this area, both in retail competition and wholesale competition because there has been innovation. Twenty-four States have already adopted retail competition. That covers nearly 60 percent of our consumers. All other States are now giving it consideration. As a consequence of the innovation of

the States, we are now seeing retail competition becoming a reality.

The Federal Energy Regulatory Commission has created wholesale competition in the interstate market through Order 888.

The legislative task we face—I, as chairman of the Energy and Natural Resources Committee, and my colleagues on that committee, both the minority and the majority—will be significant. We look forward to the task ahead. It will call for the examination of this bill, as a comprehensive bill, to try to address the various concerns, as well as take up the other bills.

However, I recognize there will be certain areas on which we will not be able to reach agreement. We can set them aside and proceed on what we can agree on, then go back one more time and look at those items we are still hung up on to see if we can generate any consensus. At that point, we can see what we have. Hopefully, it will be still meaningful.

As I said, the legislative task before the Senate is building on the progress that has been made with the States, not halting State progress on retail competition, and not interfering with the FERC process on wholesale competition.

The question is: How do we get there from here? How do we move the electric power industry from regulation to competition? Some argue we should preempt the States; I don't think so. Some say that we should substitute FERC regulation for State regulation; I don't think so. Others have the theory that one size fits all; I don't think so.

I think the States and the innovative attitudes coming out of the States indicate that one size does not fit all. We do not want to simply substitute one regulation for another. That is not deregulation. If that is done, it is just ''different'' regulation. Moreover, what may work in one State undoubtedly won't work in another State and the consumers would be harmed.

To me, the answer is obvious. For consumers to enjoy the benefits of competition, we have to let the free market system work. We have seen that time and time again. We must stop having regulators pick the winners and losers, regulators making decisions that should be made in the marketplace.

I have long said the best way to move toward market competition is to deregulate in those areas we can, streamline what we cannot deregulate, and facilitate States moving forward on retail competition.

I would prefer deregulating the entire electric power industry. However, I recognize some regulation must remain because it is necessary to protect consumers. Traditionally, States have regulated retail matters directly affecting consumers and FERC has regulated matters in interstate commerce. The legislation I introduce today retains this traditional division of authority between the States and FERC.

I believe that where regulation is necessary, it should be pursued by the unit of government that is closest to the consumer. The government that is closest to the citizen, is the government that will be the most responsive to citizens. Citizens go down to city hall; citizens will go down to the legislative body. That is where citizens are closest to their government, and those are the people to whom taxpayers can reach out and hold responsible—or wring their neck if necessary.

I believe that FERC should only regulate that which cannot be regulated by States because it is in interstate commerce. I repeat that: In my opinion, as represented in this bill, FERC should regulate only that which cannot be regulated by States because it is in interstate commerce.

I will highlight the important provisions of the legislation I have introduced today. One key element is the creation of a clear division of responsibility between the States and the Federal Government. States are responsible for retail matters affecting consumers in their State, including retail competition, and FERC is responsible for interstate matters, including wholesale competition. By creating this jurisdictional ''bright line,'' so to speak, I think we will clear up the current confusion in the jurisdiction that has resulted in litigation which is slowing down progress on competition. In the future, if there is a problem, we will know whom to hold responsible.

Oftentimes in this business, accountability is pretty hard to find. We have designed this so we will be able to hold those responsible for their actions, and they will not be able to hide under a rock.

This legislation also includes provisions that will protect electric reliability which is so important to consumers in our economy.

I am pleased to say Senator LANDRIEU is joining me in this bipartisan legislation. The Senator from Louisiana has been very diligent in our Energy Committee.

The legislation protects electric reliability in two ways: First, it creates a comprehensive, reliability organization that has clear enforcement authority. This will help in the short term. Second, by promoting competition, it ensures reliability over the long run, because the market will respond to consumer needs.

The legislation also includes provisions to ensure that States and State public utility commissions will continue to be fully able to protect consumers.

The legislation has provisions which will provide access to all interstate transmission lines, not just those covered by investor-owned utilities. Removing gaps in transmission access will promote competition in the wholesale power market.

The legislation also addresses a number of other important issues including PURPA repeal, PUHCA repeal, assuring funding for nuclear power plant decommissioning, and authority to construct new transmission lines.

There are other important issues that need to be addressed during the legislative process. For example, we need to look at ways to streamline and speed up the merger review process. Utilities are rightfully distressed that FERC's process is far too cumbersome, takes far too long to complete, and as a consequence is far too expensive. And these costs are just passed on to consumers. FERC is retained to do their analysis and make their decisions in a timely manner. These drawn out decisions, for all practical purposes, are simply allowing full employment for far too many lawyers.

We also need to consider the creation of a universal service fund, similar to that which Congress included in the telecommunications legislation. This would help areas of the United States which do not yet have access to reliable and affordable electricity. Yes, there are regions in the United States where electricity is not taken for granted. My State of Alaska is one.

There is a related tax issue which must also be addressed in the context of comprehensive legislation. That is the tax-exempt municipal bond issue, creating a level competitive playing field between investor-owned utilities and municipally-owned utilities.

Because this is important to both municipally-owned and investor-owned utilities, I will talk about the problem for a moment. First, under the U.S. Tax Code, municipally-owned utilities can issue tax-exempt bonds to build new generation, transmission, and distribution facilities, but investor-owned utilities cannot issue tax-exempt bonds for these purposes. This gives municipally-owned utilities a taxpayer-provided competitive advantage to the extent they are able to use the facilities built with tax-exempt bonds to compete against private power which cannot use tax-exempt bonds.

On the flip side, under the Tax Code, municipal tax-exempt bonds are subject to a private-use limitation. This means that if municipal utilities go too far in competing against private utilities, if they exceed their ''private use'' limitation allowed by the IRS, their bonds are subject to retroactive taxation. This limits the ability of municipal utilities to compete in the market. I assume we will hear from them on that. There has to be some equity in this process.

The bottom line? We have a Tax Code that is not consistent with today's competitive environment. Both municipal utilities and private utilities are at risk. The issue must be addressed. It is not necessarily part of the legislation I am introducing today because the Tax Code issue is before the Finance Committee. I admit I am a member of that committee. Both the administration and Senator GORTON have legislative proposals pending before the Finance Committee.

But I call, finally, upon industry—private power and public power—to come and try to work out their differences on this and to bring Congress a compromise proposal that both sides can live with because it is something that simply has to be addressed. It is better to have the parties resolve it than have a dictate from the Congress.

There are other issues of regional consideration that will need to be addressed as part of comprehensive legislation. We need to resolve the role of the Federal power marketing administrations in the marketplace, including the Bonneville Power Administration. We also need to address the role of one of the largest utilities in the United States, the TVA.

I look forward to working with Senators from the Northwest—I see one on the floor—to address the Bonneville Power Administration issue, and the Senators from the South to address the Tennessee Valley Authority issue. I am convinced by promoting competition and protecting reliability this legislation will benefit the consumers, the economy, and our international competitors.

I, again, thank Senator LANDRIEU of Louisiana for cosponsoring this legislation.

To reiterate, I rise to introduce legislation to promote competition in the electric power industry. This legislation is bipartisan, it is cosponsored by Senator LANDRIEU.

Let me first say that competition is not the goal of this legislation. Instead, competition is the means to achieve the goal of assuring consumers reliable and reasonably-priced electricity.

We have seen great benefits from bringing competition to other industries such as natural gas, telecommunications, trucking and airlines. In each case, competition reduced prices, enhanced supply and encouraged innovation. There is every reason to expect that increased competition in the electric power industry will likewise benefit consumers. The Department of Energy agrees. It has projected consumer savings of $20 billion per year.

Great progress has already been made in both retail competition and wholesale competition. To date, retail competition programs have been adopted by 24 States, which cover 60 percent of U.S. consumers. All of the remaining States are now considering what kind of retail program would best meet their local needs. Competition has been brought to the interstate wholesale market through the enactment of the Energy Policy Act of 1992 and FERC's subsequent issuance of Orders No. 888 and 889.

So the legislative task facing Congress is to build on this progress, not to halt State progress on retail competition or to interfere with FERC progress on wholesale competition.

The question is: How do we get there from here? How do we move the electric power industry from regulation to competition? Should we preempt the States and substitute Federal regulation for State regulation, as some argue? Or should we instead deregulate to allow the market to operate?

To me the answer is obvious: Competition must be market-based, not government-run. We must stop having regulators pick winners and losers, making decisions that ought to be made by the marketplace. Substituting one regulator for another—Federal for State—is not deregulation. It's just different regulation. Creating a one-size-fits-all Federal solution may work in some States, but it will not work in all States. For the market to work and for consumers to enjoy the benefits of competition, we need to free the market from undue government interference.

I have long said that the best way to move toward market competition is to deregulate what we can, streamline what we cannot deregulate, and to facilitate States moving forward on retail competition.

While I would like to deregulate the entire electric power industry, I recognize that some regulation will remain necessary to protect consumers. Where regulation is necessary, I believe that it should be performed by the unit of government closest to the consumer. However, where the matter to be regulated is in interstate commerce, FERC must be the regulatory agency. Traditionally, States have regulated retail matters directly affecting consumers, and the FERC has regulated wholesale sales and transmission in interstate commerce. The legislation I am today introducing retains this traditional division of authority between the States and the FERC.

I will now outline the key provisions of the legislation.

One key element of this legislation is the creation of a clear division of authority between the States and the Federal government. The legislation makes it clear that States are responsible for retail matters affecting consumers in their State, and the FERC is responsible for interstate matters. Thus, States will continue to be responsible for retail competition, and the FERC will continue to be responsible for wholesale competition.

This clarification is necessary because when the Federal Power Act was created in 1935, Congress did not foresee the current market and industry structure. As a result, there are now ambiguities as to the split in jurisdiction between the States and the Federal government. This has resulted in uncertainty and increasing litigation. Creating a jurisdictional ''bright line'' will help both States and the FERC move forward with their efforts to promote competition in their respective jurisdictions. Moreover, by creating clear lines of accountability, if things don't work right we will know exactly where to point the finger.

Another major aspect of this legislation is that it will protect the reliability of our electric power system. The legislation does so in two different ways. First it creates a grid-wide reliability organization that is given the enforcement authority necessary to assure reliability. The language in the legislation is the industry-supported North American Electric Reliability Council proposal, plus additional reliability provisions proposed by Western Governors, State public utility commissions and State energy officials. However, as much as this new organization will help ensure reliability, it is not the long-term solution. The real solution is to promote competition, and that can only be accomplished though comprehensive legislation such as this.

This legislation also includes provisions to provide access to all interstate transmission lines, not just those owned by investor-owned utilities. Under the Federal Power Act, Federally-owned utilities, State-owned utilities, municipally-owned utilities and cooperatively-owned utilities are all exempt from FERC's nondiscriminatory open access transmission program. These exempt utilities do not have to provide access to the transmission grid which adversely affects competition in the interstate wholesale power market. This legislation corrects that problem.

Another important aspect of this legislation is its confirmation that States are not prevented from protecting consumers on a variety of retail matters such as: distribution system reliability; safety; obligation to serve; universal service; assured service to low-income, rural and remote consumers; retail seller performance standards; and protection against unfair business practices.

There are similar provisions which confirm that States are not prevented from imposing a public interest charge to fund State programs such as: ensuring universal electric service, particularly for consumers located in rural and remote areas; environmental programs, renewable energy conservation programs; providing recovery of industry transition costs; providing transition costs for electricity workers hurt by restructuring; and research and development on electric technologies.

By including these provisions, my legislation will ensure that States and State public utility commissions are fully capable of protecting consumers and promoting the public interest.

The legislation also contains a number of other important provisions including repeal of PURPA's mandatory purchase requirement, repeal of PUHCA and assuring funding for nuclear power plant decommissioning.

One provision in this legislation that I expect to be controversial is eminent domain authority to construct new interstate transmission lines. The provisions of the bill make this construction authority available in situations where there is a regional transmission planning process that provides for full

public input, and is reviewed and approved by the FERC; and the transmission project cannot otherwise be constructed either because the State does not have the necessary authority, or because the State has delayed action for more than one year; and the FERC, through a formal public process with all legal rights protected, finds that the new transmission line is in the public convenience and necessity.

When authorizing this construction, the legislation gives the FERC full authority to impose any requirements that are necessary to protect the public interest.

You might ask: Why include such a potentially controversial provision? There are three reasons.

The first reason is supply. We must have transmission lines if we are going to get electricity to consumers and industry. It is a simple fact of physics that you can't move electricity without power lines.

The second reason is market power. As you know, market power exists where there is more demand than an existing transmission line can handle—a bottleneck. There are two possible ways to address a bottleneck. The first is full regulation of the bottleneck transmission facility, with regulators picking the winners and losers. But that does not solve the problem, it just allocates the problem. The other is the free market approach. Let those who want to move their electric power to market build a new transmission line around the bottleneck—or at least have a credible threat to build if the owner of the bottleneck transmission line does not offer them a fair deal.

The third reason is reliability. Based on events over that past several years, it is clear that we need to enhance our transmission system if we are going to meet consumer needs during peak periods of demand.

For those who think eminent domain is a brand-new idea for energy facilities—it isn't. The Federal Power Act already gives Federal eminent domain for hydroelectric dams and their associated electric transmission lines. Similarly, the Natural Gas Act gives Federal eminent domain for interstate natural gas pipelines. If it works for interstate natural gas pipelines, it will work for interstate electric transmission lines.

Turning now to regional transmission organizations, the legislation I am today introducing retains the RTO provisions that were in my draft bill. While Order No. 2000 has many good aspects—its voluntary nature, flexibility, open architecture and transmission incentives—it does have some serious deficiencies. I am especially concerned about two key issues.

First, Order No. 2000 prohibits any active ownership of the RTO by a utility or market participant after a five year transition period. Oddly, this applies even to someone who only owns transmission. Clearly, this will discourage participation in RTOs by transmission owners.

Second, by denying transmission owners the ability to design and file complete transmission rates with FERC, Order No. 2000 creates confusion at best, and at worst it may deny transmission owners their rights under law to recover all of their prudently incurred costs.

If these and other deficiencies are not corrected, FERC Order No. 2000 may be litigated for years, creating great uncertainty in RTO formation. In light of the increasing concerns about grid reliability, delay in RTO formation would be particularly troublesome as Order No. 2000 makes RTOs directly responsible for short-term reliability.

Let me mention some significant matters that need to be addressed during the legislative process.

For example, there is the important issue of streamlining and speeding up the FERC merger review process. Utilities are rightfully distressed that FERC's process takes far too long and is much too cumbersome.

We also need to consider the creation of a universal service fund—similar to that which Congress included in the telecommunications legislation. This would help areas which do not have access to reliable and affordable electricity. And yes, there are regions of the United States where electricity is not taken for granted.

Another controversial issue that we must deal with in the context of comprehensive legislation is the tax-exempt municipal bond issue, creating a level competitive playing field between investor-owned utilities and municipally-owned utilities. Under the U.S. Code municipally-owned utilities can issue tax-exempt bonds to build new generation, transmission and distribution facilities, but investor-owned utilities cannot issue tax-exempt bonds for these purposes. This gives municipally-owned utilities a taxpayer-provided competitive advantage to the extent they are able to use facilities built with tax-exempt bonds to compete against private power—who cannot use tax-exempt bonds in the same way. But on the flip-side—under the tax code municipal tax-exempt bonds are subject to a ''private use'' limitation. This means that if municipal utilities go too far in competing against private utilities—if they exceed their ''private use'' limitation allowed by the IRS regulation—then their bonds are subject to retroactive taxation. This limits the ability of municipal utilities to compete in the market. The bottom line? We have a tax code that is not consistent with today's competitive environment, putting both municipal utilities and private utilities at risk.

Although this issue must be addressed, it is not a part of the legislation I am introducing because it is a tax code issue that is now before the finance committee. Both the Administration and Senator GORTON have legislative proposals pending before the finance committee. I call upon the industry—private power and public power—to work out their differences and to bring Congress a compromise proposal—that both sides can live with.

There are also a number of other regional issues that will need to be addressed as a part of comprehensive legislation. For example, we need to resolve the role of the Federal power marketing administrations in he marketplace—including the Bonneville Power Administration. We also need to address the role of one of the largest utilities in the United States—the Tennessee Valley Authority.

I am convinced that by promoting competition in the electric power industry and by addressing the reliability issue, this legislation will benefit consumers, our economy and our international competitiveness. Like the Secretary of Energy, I believe that it is now time to move forward with legislation. I hope that my colleagues agree.

By Mr. REED:

S. 2099. A bill to amend the Internal Revenue Code of 1986 to require the registration of handguns, and for other purposes; to the Committee on Finance.

HANDGUN SAFETY AND REGISTRATION ACT OF 2000

• Mr. REED. Mr. President, I rise today to introduce the Handgun Safety and Registration Act of 2000, which would enable law enforcement agencies nationwide to more easily trace handguns used in crime, and provide background checks and registration by law enforcement of all primary and secondary transfers of handguns, including retail sales, Internet sales, gun shows, and all other private transfers. This legislation is supported by Handgun Control, Inc., the Violence Policy Center, the NAACP, and Physicians for Social Responsibility.

Many Americans are unaware that there is a successful federal weapons registration system already in place under the 1934 National Firearms Act (NFA). The NFA requires registration of all machine guns, short-barrel shotguns and short-barrel rifles, silencers, bombs, grenades, and other specialized weapons. The NFA is successfully and efficiently administered by the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms (ATF).

The Handgun Safety and Registration Act would require the registration of all handguns under the NFA within one year of enactment. I know some of my colleagues may question why this bill is needed. First, the bill would help law enforcement more effectively trace handguns used in crime by making registration data available on-line to state and local law enforcement agencies. Tracing methods used today are extremely cumbersome and favor the criminal over the police. When a gun used to commit a crime is recovered, a state or local law enforcement agency contacts ATF with the name of the manufacturer and the serial number of the handgun—if it has not been removed by the criminal. ATF in turn

contacts the manufacturer, which provides the name of the wholesale or retail dealer to whom the handgun was sold. ATF then contacts the dealer to obtain the name of the individual or another retail dealer who purchased the handgun.

All too often, this is where the trail goes cold, and another gun crime may go unsolved. If the individual handgun owner has sold the gun to another person in a private sale, there is no way for law enforcement to follow the path of the handgun without time-consuming detective work and a good deal of luck. Subsequent private transfers or gun show sales are similarly unrecorded, making law enforcement's job even more difficult. Even before the first retail sale, law enforcement is completely dependent upon the record keeping of gun manufacturers and gun dealers to follow the trail of a handgun from manufacture to criminal use. There is no law enforcement database of handgun production or sales in the United States. The Handgun Safety and Registration Act would give the advantage back to the police by making handgun registration data available to law enforcement in an easily accessible format.

Mr. President, in addition to improving law enforcement's tracing capabilities, the Handgun Safety and Registration Act would help prevent handguns from ending up in the possession of people who are likely to commit gun crimes. The bill would require registration of all handguns, including those currently in private possession, and would make it a felony for any person to transfer a handgun to another individual without prior law enforcement approval. As it currently does for all NFA weapons, ATF would conduct a background check on the transferee through the National Crime Information Center (NCIC), the Treasury Enforcement Communications System (TECS), and the National Law Enforcement Tracking System (NLETS). This would provide a clear incentive for all handgun owners and dealers to exercise great caution when they choose to sell or otherwise transfer a handgun to another person.

It is my hope that by requiring registration of all handguns under the National Firearms Act, we can give law enforcement officials the tools to conduct faster and more reliable tracing of handguns used in crime, and prevent handguns from falling into criminal hands in the first place. The Handgun Safety and Registration Act of 2000 would accomplish these goals without restricting in any way the possession or sale of hunting rifles or shotguns used by law-abiding sportsmen across the country.

I encourage my Senate colleagues to support this important legislation as we seek effective ways to help law enforcement reduce gun violence in America.●

By Mr. EDWARDS (for himself, Mr. LAUTENBERG, and Mr. TORRICELLI):

S. 2100. A bill to provide for fire sprinkler systems in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories; to the Committee on Health, Education, Labor, and Pensions.

COLLEGE FIRE PREVENTION ACT

● Mr. EDWARDS. Mr. President, today with my colleagues Senator LAUTENBERG and Senator TORRICELLI, I introduce the College Fire Prevention Act. This measure would provide federal matching grants for the installation of fire sprinkler systems in college and university dormitories and fraternity and sorority houses.

Mr. President, the tragic fire that occurred at Seton Hall University on Wednesday, January 19th of this year will not be long forgotten. Sadly, three freshman, all 18 years old, died. Fifty-four students, two South Orange firefighters and two South Orange police officers were injured. The dormitory, Boland Hall, was a six-story, 350 room structure built in 1952 that housed approximately 600 students. Astonishingly, the fire was contained to the third floor lounge of Boland Hall. This dormitory was equipped with smoke alarms but no sprinkler system.

Unfortunately, the Boland Hall fire was not the first of its kind. And it reminded many people in North Carolina of their own tragic experience with dorm fires. In 1996, on Mother's Day and Graduation Day, a fire in the Phi Gamma Delta fraternity house at the University of North Carolina at Chapel Hill killed five college juniors and injured three others. This fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

Sadly, there have been countless other dorm fires. On December 9, 1997, a student died in a dormitory fire at Greenville College in Greenville, Illinois. The dormitory, Kinney Hall, was built in the 1960s and had no fire sprinkler system. On January 10, 1997, a student died at the University of Tennessee at Martin. The dormitory, Ellington Hall, had no fire sprinkler system. On January 3, 1997, a student died in a dormitory fire at Central Missouri State University in Warrensburg, Missouri. On October 21, 1994, five students died in a fraternity house fire in Bloomsburg, Pennsylvania. The list goes on and on. In a typical year between 1980 and 1997, the National Fire Protection Association estimates there were an average of 1,800 fires at dormitories, fraternities, and sororities, involving 1 death, 69 injuries, and 8.1 million dollars in property damage.

So now we must ask, what can be done? What can we do to curtail these tragic fires from taking the lives of our children . . . our young adults? We should focus our attention on the lack of fire sprinklers in college dormitories and fraternity and sorority houses. Sprinklers save lives. Indeed, the National Fire Protection Association has never recorded a fire that killed more than 2 people in a public assembly, educational, institutional, or residential building where a sprinkler system was operating properly.

Despite the clear benefits of sprinklers, many college dorms do not have them. New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings. In 1997, over 90 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 28 percent of them had fire sprinklers present.

At my state's flagship university at Chapel Hill, for example, only six of the 29 residence halls have sprinklers. A report published by The Raleigh News & Observer in the wake of the Seton Hall fire also noted that only seven of 19 dorms at North Carolina State University are equipped with the life-saving devices, and there are sprinklers in two of the 10 dorms at North Carolina Central University. At Duke University, only five of 26 dorms have sprinklers.

Mr. President, the legislation I introduce today authorizes the Secretary of Education, in consultation with the United States Fire Administration, to award grants, on a competitive basis, to States, private or public colleges or universities, fraternities, or sororities to assist them in providing fire sprinkler systems for their student housing and dormitories. These entities would be required to produce matching funds equal to one-half of the cost. This legislation authorizes $100 million for fiscal years 2001 through 2005.

In North Carolina, we decided to initiate a drive to install sprinklers in our public college and university dorms. The overall cost is estimated at $57.5 million. Given how much it is going to cost North Carolina's public colleges and universities to install sprinklers, I think it's clear that the $100 million that this measure authorizes is just a drop in the bucket. But my hope is that by providing this small incentive we can encourage more colleges to institute a comprehensive review of their dorm's fire safety and to install sprinklers. All they need is a helping hand. With this modest measure of prevention, we can help prevent the needless and tragic loss of young lives.

Mr. President, parents should not have to worry about their children living in fire traps. When we send our children away to college, we are sending them to a home away from home where hundreds of other students eat, sleep, burn candles, use electric appliances and smoke. We must not compromise on their safety. As the Fire Chief from Chapel Hill wrote me: ''Parents routinely send their children off

to college seeking an education unaware that one of the greatest dangers facing their children is the fire hazards associated with dormitories, fraternity and sorority houses and other forms of student housing. . . . The only complete answer to making student-housing safe is to install fire sprinkler systems.'' In short, the best way to ensure the protection of our college students is to install fire sprinklers in our college dormitories and fraternity and sorority houses. My proposal has been endorsed by the National Fire Protection Association and the College Parents of America. I ask all of my colleagues to join me in supporting this important legislation. Thank you.

Mr. President, I ask unanimous consent that a copy of the legislation, the letters of support and a partial list of fatal college fires be printed in the RECORD.

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

S. 2100

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 ''College Fire Prevention Act.''

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On Wednesday, January 19, 2000, a fire occurred at a Seton Hall University dormitory. Three male freshmen, all 18 years of age, died. Fifty-four students, 2 South Orange firefighters, and 2 South Orange police officers were injured. The dormitory was a 6-story, 350-room structure built in 1952, that housed approximately 600 students. It was equipped with smoke alarms but no fire sprinkler system.

(2) On Mother's Day 1996 in Chapel Hill, North Carolina, a fire in the Phi Gamma Delta Fraternity House killed 5 college juniors and injured 3. The 3-story plus basement fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

(3) It is estimated that in a typical year between 1980 and 1997, there were an average of 1,800 fires at dormitories, fraternities, and sororities, involving 1 death, 69 injuries, and $8,100,000 in property damage.

(4) Within dormitories the number 1 cause of fires is arson or suspected arson. The second leading cause of college building fires is cooking, while the third leading cause is smoking.

(5) The National Fire Protection Association has no record of a fire killing more than 2 people in a completely fire sprinklered public assembly, educational, institutional, or residential building where the sprinkler system was operating properly.

(6) New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings.

(7) In 1997, over 90 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 28 percent had fire sprinklers present.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $100,000,000 for each of the fiscal years 2001 through 2005.

SEC. 4. GRANTS AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary of Education, in consultation with the United States Fire Administration, is authorized to award grants, on a competitive basis, to States, private or public colleges or universities, fraternities, or sororities to assist them in providing fire sprinkler systems for their student housing and dormitories.

(b) MATCHING FUNDS REQUIREMENT.—The Secretary of Education may not award a grant under this section unless the entity receiving the grant provides, from State, local, or private sources, matching funds in an amount equal to not less than one-half of the cost of the activities for which assistance is sought.

SEC. 5. PROGRAM REQUIREMENTS.

(a) AWARD BASIS.—In awarding grants under this Act the Secretary of Education shall take into consideration various fire safety factors and conditions that the Secretary determines appropriate.

(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—An entity that receives a grant under this Act shall not use more than 4 percent of the grant funds for administrative expenses.

SEC. 6. DATA AND REPORT.

The Comptroller General shall—

(1) gather data on the number of college and university housing facilities and dormitories that have and do not have fire sprinkler systems and other forms of built-in fire protection mechanisms; and

(2) report such data to Congress.

TOWN OF CHAPEL HILL,
FIRE DEPARTMENT,
Chapel Hill, NC, February 15, 2000.

Sen. JOHN EDWARDS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR EDWARDS, One of the most unrecognized fire safety problems in America today is university and college student housing. Parents routinely send their children off to college seeking an education unaware that one of the greatest dangers facing their children is the fire hazards associated with dormitories, fraternity and sorority houses and other forms of student housing. We in Chapel Hill experienced a worst-case scenario, when in 1996 a fire in a fraternity house on Mother's Day/Graduation Day claimed five young lives and injured three more. We recognized the only complete answer to making student-housing safe is to install fire sprinkler systems.

I have had the privilege of reading a draft copy of your legislation creating a matching grants program for universities, colleges and fraternity/sorority house who take the life-saving step of installing fire sprinkler systems. I strongly urge you to introduce this legislation and I pledge to assist your staff in promoting this important bill and help to develop bi-partisan support for it. Your proposed legislation is the only real solution to the fire threat in student housing.

After ten years of being responsible for fire protection at the University of North Carolina—Chapel Hill, I am convinced that where students reside, alarms systems are not enough, clear exit ways are not enough, quick fire department response is not enough and educational programs are not enough. The only way you can insure fire safety for college student housing is to place a fire sprinkler system over them. Thank you for recognizing the magnitude of this threat and for proposing the solution to it.

Tell me how we can help.

Sincerely,

DANIEL JONES,
Fire Chief.

COLLEGE PARENTS OF AMERICA,
Washington, DC, February 15, 2000.

Hon. JOHN EDWARDS,
U.S. Senate, Washington, DC.

DEAR SENATOR EDWARDS: College Parents of America (CPA) would like to commend you on the introduction of grant legislation to encourage public and private colleges, universities, fraternities and sororities to install sprinkler systems in all dormitories and other forms of group housing.

Today college parents represent an estimated 12 million households. An additional 24 million households are currently saving and otherwise preparing children for college. College Parents of America is the only national membership association dedicated to helping these parents prepare for and put their children through college easily, economically and safely.

College Parents of America places a high priority on ensuring safety in student housing. In fact, CPA is urging parents and students during their college evaluation process to make sure there are smoke alarms, sprinkler systems and scheduled drills in all campus housing and classroom buildings. While the financing and installation of smoke alarms are relatively easy, funding is cited as a challenge in the installation of sprinkler systems in many older residential buildings on the nation's campuses. Your grant legislation will provide a vehicle for institutions to ensure all student residential facilities have adequate sprinkler safety systems. As a result, the grant legislation will not only save millions of dollars annually from property damage, but also save young lives.

Please let me know how and when I can provide assistance. I look forward to working together to pass this important piece of legislation.

Sincerely,

RICHARD M. FLAHERTY.

NATIONAL FIRE PROTECTION
ASSOCIATION,
Arlington, VA, February 23, 2000.

Sen. JOHN EDWARDS,
U.S. Senate, Senate Hart Building, Washington, DC.

DEAR SENATOR EDWARDS: On behalf of the National Fire Protection Association (NFPA) and its 68,000 members, we are pleased to support your legislative efforts to provide federal assistance for the installation of fire sprinkler systems in college and university housing and dormitories.

Our statistics show that properly installed and maintained fire sprinkler systems have a proven track record of protecting lives and property in all types of occupancies. In particular, the retrofitting of fire sprinkler systems in college and university housing will greatly improve the safety of these public and private institutions.

Thank you for the opportunity to be of assistance in this important initiative.

Sincerely,

ANTHONY R. O'NEILL,
Vice President, Government Affairs.

NFPA FIDO SUMMARY REPORT FATAL COLLEGE/UNIVERSITY FRATERNITY AND SORORITY HOUSE FIRES REPORTED TO U.S. FIRE DEPARTMENTS

Date	Location	Deaths	Injuries
March 24, 1973	Auburn University, Auburn, AL	1	0
February 23, 1974	Kents Hill School, Readfield, ME	1	0
March 16, 1975	Kappa Sigma Fraternity House, Burlington, VT	1	1
July 22, 1975	Tank Hall MIT Dormitory, Cambridge, MA	1	0
January 8, 1976	Alpha Rho Chi Fraternity House, Columbus, OH	2	6
April 5, 1976	Wilmarth Dorm, Skidmore College, Saratoga Springs, NY	1	27
August 29, 1976	Kappa Sigma Fraternity House, Baldwin City, KS	5	2
December 13, 1977	Providence College, Providence, RI	10	16
January 14, 1978	Alpha Tau Omega Fraternity House, University Park, TX	1	2
March 4, 1979	Slippery Rock State College, Slippery Rock, PA	1	3
April 5, 1980	Sigma Alpha Epsilon Fraternity House, Eugene, OR	1	1
July 2, 1980	Dncer Hall University of North Iowa, Cedar Falls, IA	1	0
September 20, 1981	Davis Dormitory Texas College, Tyler, TX	1	8
March 16, 1982	Dormitory University of Chicago, Chicago, IL	1	0
September 9, 1982	Phi Kappa Theta Fraternity House, Philadelphia, PA	1	8
September 18, 1982	Dormitory Clark University, Worcester, MA	1	3
May 28, 1983	Alpha Epsilon Fraternity House, Bridgewater, MA	1	1
December 11, 1983	Lambda Chi Alpha Fraternity House, Austin, TX	1	1
January 6, 1984	Pi Kappa Alpha Fraternity House, Thibodaux, LA	1	0
April 11, 1984	Phi Gamma Delta Fraternity House, Lexington, VA	1	0
October 21, 1984	Zeta Beta Tau Fraternity House, Bloomington, In	1	30
December 20, 1984	Prometheus House (Pi Kappa Sigma), Geneseo, NY	1	0
March 3, 1985	Alpha Tau Omega Fraternity House, San Jose, CA	1	1
April 19, 1986	Delta Kappa Epsilon Fraternity House, Danville, KY	1	0
November 29, 1986	Russell Apt. Building Busch Campus, N. Brunswick, NJ	1	1
April 12, 1987	Wesley College-Williams College	1	4
September 8, 1990	Phi Kappa Sigma Fraternity House, Berkeley, CA	3	2
December 8, 1990	Lambda Chi Fraternity House, Erie PA	1	4
February 13, 1992	Phi Kappa Theta Fraternity House, California, PA	1	0
October 24, 1993	Alpha Xi Delta Sorority House, LaCrosse, WI	1	2
October 21, 1994	Beta Sigma Delta Fraternity House, Bloomsburg, PA	5	0
May 12, 1996	Phi Gamma Delta Fraternity House, Chapel Hill, NC	5	3
October 19, 1996	Phi Delta Theta Fraternity House, Delaware, OH	1	0
January 3, 1997	CMSU-Foster-Knox Hall, Warrensburg, MO	1	0
January 10, 1997	Hannings Ln-UTM-Ellington Hall, Martin, TN	1	5
February 20, 1997	Gramercy Park-School of Visual Arts, Brooklyn, NY	1	0
December 9, 1997	Greenville College-Kinney Hall, Greenville, IL	1	0

This table lists fatal college dormitory and fraternity and sorority houses fires and associated losses reported to the National Fire Protection Association's Fire Incident Data Organization. This listing should not be considered complete since only those incidents for which information was collected by the National Fire Protection Association were listed.

Revised: 3/99•

Mr. LAUTENBERG. Mr. President, today I am pleased to join my colleague from North Carolina, Senator EDWARDS, in introducing the College Fire Prevention Act.

On Wednesday, January 19, 2000, a fire raged through a dormitory at Seton Hall University, claiming the lives of three students and injuring 58 others, including at least 54 students, two police officers and two firefighters. The dormitory, Boland Hall, was built in 1952, and although it was equipped with smoke detectors, it was not required to be equipped with a fire sprinkler system.

Nothing is as painful as a senseless accident that takes the lives of young people. And unfortunately, the Seton Hall community is not alone in its grief. In fact, in the last decade, 18 young people lost their lives in dormitory fires. We must do all we can to prevent future tragedies. Students have a fundamental right to pursue an education in a safe, secure environment. Parents have a right to know that their children are protected from harm while on school property.

That is why I am pleased to be an original cosponsor of this legislation to provide Federal matching grants for the installation of fire sprinkler systems in student housing. This bill authorizes the Secretary of Education, in consultation with the U.S. Fire Administration, to award grants to equip dormitories, sorority, and fraternity houses with fire sprinkler systems.

I thank Senator EDWARDS for sponsoring this important legislation, and I look forward to working with him to ensure that student housing is as safe as possible.

By Mr. INOUYE (for himself, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 2102. A bill to provide to the Timbisha Shoshone Tribe a permanent land base within its aboriginal homeland, and for other purposes; to the Committee on Indian Affairs.

TIMBISHA SHOSHONE HOMELAND ACT

• Mr. INOUYE. Mr. President, I am pleased to rise today to join with my distinguished colleagues from California, Senator FEINSTEIN and Senator BOXER, in introducing legislation that would provide a permanent land base for the Timbisha Shoshone Tribe.

For thousands of years the Timbisha Shoshone Tribe has lived in and around the area that is now Death Valley National Park. For many years, the Tribe sought unsuccessfully to obtain a base of trust land within its aboriginal homeland area. In 1994, when the Congress enacted the California Desert Protection Act, P.L. 103–433, it set in motion a process to address the need of the Tribe for a recognized land base. Section 705(b) of the Act provided that—

> The Secretary, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, shall conduct a study, subject to the availability of appropriations, to identify lands suitable for a reservation for the Timbisha Shoshone Tribe that are located within the Tribe's aboriginal homeland area within and outside the boundaries of Death Valley National Monument and the Death Valley National Park as described in part A of this subchapter.

The study report, which finally was completed late in 1999, set forth recommendations for legislation that would implement a comprehensive, integrated plan for a permanent Homeland for the Tribe. The legislation that we introduce today would give substance to those recommendations.

Briefly, the bill provides for the transfer of several separate parcels of land, currently administered by the Department of the Interior and comprising approximately 7,500 acres, in trust for the Timbisha Shoshone Tribe. These parcels include: 300 acres at Furnace Creek in Death Valley National Park encompassing the present Timbisha Village Site, subject to jointly developed land use restrictions designed to ensure compatibility and consistency with tribal and Park values, needs and purposes; 1,000 acres of land now managed by the Bureau of Land Management at Death Valley Junction, California, east of the Park; 640 acres of land now managed by the Bureau of Land Management in an area identified as Centennial, California, west of the Park; 2,800 acres of land now managed by the Bureau of Land Management and classified as available for disposal near Scotty's Junction, Nevada, northeast of the Park; and 2,800 acres now managed by the Bureau of Land Management and classified as available for disposal near Lida, Nevada, north of the Park.

This legislation also authorizes the Secretary of the Interior to purchase from willing sellers two parcels of approximately 120 acres of former Indian allotted lands in the Saline Valley, California, at the edge of the Park, and the 2,430 acre Lida Ranch near Lida, Nevada.

The legislation would designate an area primarily in the western part of Death Valley National Park as the Timbisha Shoshone Natural and Cultural Preservation Area, within which low impact, environmentally sustainable, tribal traditional uses, activities and practices will be authorized subject to existing law and a jointly established management plan agreed upon

by the Tribe, the National Park Service and the Bureau of Land Management.

Mr. President, this legislation will at long last provide the Timbisha Shoshone Tribe with land on which its members can live permanently and govern their affairs in a modern community, and will formally recognize the Tribe's contributions to the history, culture, and ecology of the Death Valley National Park and the surrounding area.

It will ensure that the resources within the Park are protected and enhanced by cooperative activities within the Tribe's ancestral homeland, and by partnerships between the Tribe and the National Park Service and the Bureau of Land Management, all of which will be consistent with the purposes and values for which the Park was established.

Mr. President, the legislation we are introducing today is incomplete in that certain map references and specific acreage numbers are still being determined by the Department. However, these are minor concerns that will be addressed in the coming weeks. It is vitally important that this legislation be introduced so that a hearing can be scheduled and all interested parties will have the opportunity to review this measure prior to the hearing.●

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

S. 2105. A bill to amend chapter 65 of title 18, United States Code, to prohibit the unauthorized destruction, modification, or alteration of product identification codes used in consumer product recalls, for law enforcement, and for other purposes; to the Committee on the Judiciary.

ANTI-TAMPERING ACT OF 2000

Mr. HATCH. Mr. President, I rise today to introduce with my good friend from Vermont, the distinguished Ranking Minority Member of the Senate Judiciary Committee, Senator LEAHY, the ''Anti-Tampering Act of 2000.'' In short, this bill prohibits tampering with product identification codes—a practice that threatens the health and safety of US consumers, frustrates legitimate forensic activities of law enforcement, and impairs manufacturers' ability to protect their distribution channels, thereby exposing them to significant product liability exposure.

Let me take just a moment to explain the need for this bill. Manufacturers code their products in order to protect their consumers and to assist law enforcement in investigating consumer complaints, as well as in conducting recalls of tampered products. These codes assist the manufacturer and law enforcement in tracing goods back to a particular lot, batch or date of production. They include batch codes, expiration dates, lot numbers, and other information that one can typically see imprinted on the bottom or side of most products.

Legitimate goods produced by manufacturers are obtained by ''illegitimate decoders'', frequently by fraud, theft or false pretenses. These decoders then decode and otherwise tamper with product labeling to avoid detection so that they may sell these ill-gotten goods to unauthorized points of sale. The frightening aspect of this activity, Mr. President, is that a substantial portion of the US-made goods sold by illegitimate decoders have been adulterated or otherwise tampered with after manufacture, and present health and safety risks to consumers.

Incredible as it may seem, thieves routinely tamper with product identification codes on stolen goods; counterfeiters affix fake codes on gray market goods that are then mixed with counterfeits; and distributors who have broken their distribution contracts with manufacturers typically obliterate product identification codes.

Because gray market activity is largely lawful in the US, the diverters' distribution channels have been used by professional thieves and counterfeiters to traffic in their illegal merchandise. There appears to be a connection between counterfeit and decoded imports, and anti-counterfeiting enforcement efforts will be frustrated unless greater controls are placed on the importation of such decoded products. Regrettably, gray market networks are increasingly being used for the distribution and sale of counterfeit goods. Distributors have been found to sell counterfeit goods—from baby shampoo to infant formula to cosmetics and fragrances—purchased through gray market channels.

In short, Mr. President, goods are decoded to hide evidence of fraudulent, unlawful conduct and to traffic in stolen, counterfeit, misbranded, out-of-date and unlawfully diverted merchandise.

Let me offer you a few examples of the significant health and safety risks presented by this activity. As noted by the International Formula Council, product identification codes are, without question, the single most important factor in a successful recall. In recent years, this link between product coding and consumer protection has become increasingly evident. Following the Tylenol poisonings of 1982, product coding enabled Johnson & Johnson to identify the tainted production lots and issue a nationwide recall of potentially dangerous products. Similarly, the manufacturers of automobiles, toys, food products and other consumer goods have consistently relied upon product coding to identify and recall goods that fail to meet consumer quality and safety standards.

Last year, the FDA used product codes to quickly identify a shipment of contaminated strawberries that had caused an outbreak of hepatitis in Michigan schools. More recently, the Slim Fast Corporation relied on product codes to identify and recall 192,000 cans of its ready-to-drink diet shakes because, according to the New York Times (Apr. 18, 1999), some of the cans might have been filled with a diluted cleaning solution. In addition, this summer, a leading manufacturer of infant formula used its product codes to identify and recall 7,000 cases of infant formula after a labeling error resulted in distribution of infant formula cans that may have contained an adult nutritional supplement that could have been harmful to infants. (USA Today, June 9, 1999.)

An undercover investigation by the Food and Drug Administration's Office of Criminal Investigation in New York involved wholesale purchases of expensive fertility drugs. Fraudulent code numbers appeared on the counterfeit packaging containing these injectible products. Although laboratory analysis indicated the presence of the active ingredient in these products, the FDA was not able to determine the place or conditions of their manufacture because of the absence of legitimate batch code data.

Fraudulent product identification coding has even been used in schemes involving bulk food products such as metric tons of frozen shrimp. For instance, a Florida indictment charged an importer with criminal offenses involving the repeated ''washing, mixing and soaking'' of putrid and decomposed shrimp in a solution containing copper sulfate, chlorine, lemon juice and other chemicals to conceal the inferiority of the product. Central to this scheme was the ''re-coding'' of product lots as they were repeatedly rejected by buyers, chemically treated, and re-sold to others who did not know the products' history.

In short, without product coding, the task of identifying and recalling defective goods becomes infinitely more difficult and often impossible, leaving consumers exposed to potential harm, illness and even death. According to the U.S. Consumer Product Safety Commission, there were 273 product recalls last year and, on average, one high profile recall each week.

In addition to the health and safety risks presented by this conduct, Mr. President, there is an additional, equally significant public policy interest served by this bill: codes play a vital part in traditional law enforcement activities. They assist law enforcement in investigating criminal activity, and they further aid in tracking stolen goods. They play a critical role in certain criminal investigations, allowing law enforcement officers to pinpoint the location and in some cases—including the World Trade Center bombing—the identity of the offender. In cases of stolen or tainted goods, product codes point to the source of the product and the site of the crime.

Unfortunately, Mr. President, there is no single federal statute that adequately addresses the problem of product identification code tampering of all consumer products. Federal law only applies to a limited category of consumer products. Moreover, federal law only applies if the decoder or tamperer

exhibits criminal intent to harm the consumer. It does not address the vast majority of decoding cases that could result in harm to the consumer, but do not involve the specific intent to harm the consumer. Moreover, violations of current federal law result in only a misdemeanor.

By criminalizing tampering with product identification codes, we hope to send a clear message to the professional criminals: We value the lives and well being of Americans and will not tolerate this conduct any more on our soil. You, the professional criminal, will persist in this activity at your economic and personal peril.

Under the bill, tampering with product codes of pharmaceuticals, over-the-counter medicines consumer products, health and beauty aids, and other goods will constitute a criminal offense. Criminalizing this conduct will result in strengthened law enforcement tools, greater consumer protections and greater security for manufacturers' products.

Mr. President, I believe it would be instructive to identify what this bill does not do, as there has been some misinformation about this measure. The bill does not restrict, prohibit, criminalize or otherwise impair lawful, arms-length diversion activity. In short, Mr. Chairman, the bill does not affect the legality or illegality of the gray market. It simply prohibits tampering with product identification codes. Diverters can continue to engage in parallel importing to the same extent after passage of this measure as they have in the past. However, to be clear, Mr. Chairman, they must do so without obliterating the product identification codes or affixing fake codes on the goods.

Moreover, unintentional acts of decoding or other activities associated with decoded products are not subject to criminal or civil action, because the bill provides for a knowledge standard and protection for innocent violators. Thus, the innocent store clerk who merely scans merchandise at the check out counter and unwittingly permits the sale of decoded merchandise need not worry. Nor should either the innocent trucker who transports this merchandise or the innocent distributor who engages in distributing this merchandise to the retailer have cause for concern.

Others have expressed concern that enactment of the bill will result in the end of discount retailers and discount prices. It is difficult to understand this objection. I cannot conceive why discounting would require altering the expiration dates or the source identifiers of the goods, unless all discounts are illegally diverted or are product that should be recalled. But risking the health and safety of American consumers, or selling them inferior or fake goods to keep alive a certain brand of ''discounting'' does not seem like much of a bargain to me. Discounts are routinely offered when inventories build up or styles change. Manufacturers and retailers will continue to discount when this bill is enacted. But consumers will have greater assurance that the discount they are receiving is not coming with an offsetting risk that the product is contaminated or defective.

Finally, Mr. President, some argue that the bill's application to all products is unnecessarily broad. The bill's several important public policy goals require that it apply to all products. Let me explain why. The bill is intended to ensure effective and targeted product recalls, to enhance law enforcement investigations, and to protect American consumers and the legitimate businesses who serve them from the depredations of illegitimate diverters. Product recalls apply to all products and law enforcement investigations implicate all products. For instance, the codes on the batteries in the Olympic Park bombing in Atlanta, Georgia were used to exonerate the security guard then under suspicion in that case, Richard Jewell. The code on the microprocessor chip on the bomb in the Pan Am air crash linked the bombing to terrorists. And even on a more pedestrian level, the code on a crowbar in a recent New York burglary led police to the criminal.

So, Mr. President, I am pleased to introduce this important measure today. It enjoys the strong backing of the Coalition Against Product Tampering (CAPT). The CAPT is a coalition of private sector companies, consumer groups, unions and law enforcement agencies which are concerned about product decoding and product tampering and the role these activities play in fueling and supporting other criminal enterprises, including money laundering, organized retail theft, and counterfeiting. I would ask unanimous consent, Mr. President, that the CAPT's membership list be included in the record after my remarks. I have received numerous members of this group expressing their support for the legislation introduced today.

In conclusion, Mr. President, law enforcement, consumer groups, unions, and others agree with me that intentional decoding of products threatens the health and safety of American consumers. According to the National Association of Manufacturers, manufacturers cannot conceive of a single legitimate reason to decode products. Nor can I. The ''Anti-Tampering Act of 2000'' I am introducing today is a narrowly tailored approach to this problem and should be enacted.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the legislation appear in the RECORD.

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

S. 2105

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 ''Antitampering Act of 2000''.

SEC. 2. PROHIBITION OF UNAUTHORIZED ALTERATION OF PRODUCT IDENTIFICATION CODES.

(a) IN GENERAL.—Chapter 65 of title 18, United States Code, is amended by inserting after section 1365 the following:

''§ 1365A. Tampering with product identification codes

''(a) DEFINITIONS.—In this section—

''(1) the term 'consumer'—

''(A) means—

''(i) the ultimate user or purchaser of a good; or

''(ii) any hotel, restaurant, or other provider of services that must remove or alter the container, label, or packaging of a good in order to make the good available to the ultimate user or purchaser; and

''(B) does not include any retailer or other distributor who acquires a good for resale;

''(2) the term 'flea market' means any location, other than a permanent retail store, at which space is rented or otherwise made available for the conduct of business of a transient or limited vendor;

''(3) the term 'good' means any article, product, or commodity that is customarily produced or distributed for sale, rental, or licensing in interstate or foreign commerce, and any container, packaging, label, or component thereof;

''(4) the term 'manufacturer' means—

''(A) the original manufacturer of a good; and

''(B) any duly appointed agent or representative of that manufacturer acting within the scope of its agency or representation;

''(5) the term 'product identification code'—

''(A) means any visible number, letter, symbol, marking, date (including an expiration date), or code that is affixed to or embedded in any good, by which the manufacturer of the good may trace the good back to a particular lot, batch, date of production, or date of removal;

''(B) does not include—

''(i) copyright management information (as defined in section 1202(c) of title 17) conveyed in connection with copies or phonorecords of a copyrighted work or any performance or display of a copyrighted work;

''(ii) other codes or markings on the good; or

''(iii) a Universal Product Code; and

''(C) does not include any trademark or copyright notice by itself or any item listed in subparagraph (A) that is affixed to, superimposed on, or embedded in a trademark or copyright notice;

''(6) the term 'transient or limited vendor' does not include a person who sells by sample, catalog, or brochure for future delivery to the purchaser;

''(7) the term 'Universal Product Code' means a 12-digit, all numeric code that identifies the consumer package consisting of—

''(A) a 1-digit number system character;

''(B) a 5-digit manufacturer identification number;

''(C) a 5-digit item code;

''(D) a 1-digit check number; and

''(E) the bar code symbol that encodes the 12-digit Universal Product Code; and

''(8) the term 'value' means the face, par, or market value, whichever is the greatest.

''(b) PROHIBITED ACTS.—Except as provided in subsection (d) or as otherwise expressly authorized under any other provision of Federal law, it shall be unlawful for any person, other than the consumer or the manufacturer of a good, knowingly and without the authorization of the manufacturer—

''(1) to directly or indirectly alter, conceal, remove, obliterate, deface, strip, or peel any product identification code affixed to or embedded in a good and visible to the consumer;

''(2) to directly or indirectly affix to or embed in a good a product identification code that is visible to the consumer and that is intended by the manufacturer for a different good, such that the code no longer accurately identifies the lot, batch, date of production, or date of removal of the good;

''(3) to directly or indirectly affix to or embed in a good any number, letter, symbol, marking, date, or code intended to simulate a product identification code that is otherwise visible to the consumer;

''(4) to import, reimport, export, sell, offer for sale, hold for sale, distribute, or broker a good—

''(A) in a case in which the person knows that the product identification code, which otherwise would be visible to the consumer, has been altered, concealed, removed, obliterated, defaced, stripped, peeled, affixed, or embedded in violation of paragraph (1) or (2); or

''(B) in a case in which the person knows that the good bears a number, letter, symbol, marking, date, or code in violation of paragraph (3); or

''(5) to sell, offer for sale, or knowingly permit the sale at a flea market of—

''(A) baby food, infant formula, or any other similar product manufactured and packaged for sale for consumption by a child who is less than 3 years of age; or

''(B) any food, drug, device, or cosmetic (as those terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321));

unless that person keeps for public inspection written documentation identifying such person as an authorized representative of the manufacturer or distributor of the food, drug, device, or cosmetic.

''(c) APPLICABILITY.—The prohibitions set forth in paragraphs (1) through (4) of subsection (b) shall apply to visible product identification codes (or simulated product identification codes in a case to which subsection (b)(3) applies) affixed to, or embedded in, any good held for sale or distribution in interstate or foreign commerce or after shipment therein, including any good held in a United States Customs Service bonded warehouse or foreign trade zone.

''(d) EXCEPTIONS.—

''(1) UNIVERSAL PRODUCT CODE CODES.—Nothing in this section prohibits a person from affixing a Universal Product Code, security tag, or other legitimate pricing or inventory code or other information required by Federal or State law, if such code or information does not (or can be removed so as not to) permanently alter, conceal, remove, obliterate, deface, strip, or peel any product identification code.

''(2) REPACKAGING FOR RESALE.—Nothing in this section prohibits a person from removing a good from a primary package or container and repackaging the good in another package or container, or from placing a good and its original packaging within new packaging, if—

''(A) the good retains its original product identification code, which has not been permanently altered, concealed, or removed;

''(B) the repackaging is in full compliance with all applicable Federal laws and regulations, including section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331); and

''(C) a new package includes a label that clearly states—

''(i) that the good has been repackaged; and

''(ii) the name of the repacker.

''(e) CRIMINAL PENALTIES.—Any person who willfully violates this section—

''(1) shall be fined under this title, imprisoned not more than 1 year, or both;

''(2) shall be fined under this title, imprisoned not more than 5 years, or both, if the total value of the good or goods involved in the violation is greater than $10,000;

''(3) shall be fined under this title, imprisoned not more than 10 years, or both, if—

''(A) the person acts with reckless disregard for the health or safety of the public and under circumstances manifesting extreme indifference to such risk; and

''(B) the violation threatens the health or safety of the public;

''(4) shall be fined under this title, imprisoned not more than 20 years, or both, if—

''(A) the person acts with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk; and

''(B) serious bodily injury to any individual results;

''(5) shall be fined under this title, imprisoned for any term of years or for life, or both, if—

''(A) the person acts with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk; and

''(B) the death of an individual results; and

''(6) with respect to any second or subsequent violation of this section, be convicted of a felony, and be subject to twice the maximum term of imprisonment that would otherwise be imposed under this subsection, fined under this title, or both.

''(f) INJUNCTIONS AND IMPOUNDING, FORFEITURE, AND DISPOSITION OF GOODS.—

''(1) INJUNCTIONS AND IMPOUNDING.—In any prosecution under this section, upon motion of the United States, the court may—

''(A) grant 1 or more temporary, preliminary, or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain the alleged violation; and

''(B) at any time during the proceedings, order the impounding, on such terms as the court determines to be reasonable, of any good that the court has reasonable cause to believe was involved in the violation.

''(2) FORFEITURE AND DISPOSITION OF GOODS.—Upon conviction of any person of a violation of this section, the court shall—

''(A) order the forfeiture of any good involved in the violation or that has been impounded under paragraph (1)(B); and

''(B) either—

''(i) order the destruction of each good forfeited under subparagraph (A);

''(ii) order the disposal of the good by delivery to such Federal, State, or local government agencies as, in the opinion of the court, have a need for such good, or by gift to such charitable or nonprofit institutions as, in the opinion of the court, have a need for such good; or

''(iii) order the return of the goods involved upon the request of any interested party.

''(g) CIVIL REMEDIES.—

''(1) IN GENERAL.—Any person who is injured by a violation of this section, or demonstrates the likelihood of such injury, may bring a civil action in an appropriate district court of the United States against the alleged violator.

''(2) INJUNCTIONS AND IMPOUNDING AND DISPOSITION OF GOODS.—In any action under paragraph (1), the court may—

''(A) grant 1 or more temporary, preliminary, or permanent injunctions upon the posting of a bond at least equal to the value of the goods affected on such terms as the court determines to be reasonable to prevent or restrain the violation;

''(B) at any time while the action is pending, order the impounding of the goods affected—

''(i) if the court has reasonable cause to believe the goods were involved in the violation;

''(ii) upon the posting of a bond at least equal to the value of the goods affected; and

''(iii) on other terms such as the court determines to be reasonable; and

''(C) as part of a final judgment or decree, in the court's discretion—

''(i) order the destruction of any good involved in the violation or that has been impounded under subparagraph (B);

''(ii) order the disposal of the good—

''(I) by delivery to such Federal, State, or local government agencies as, in the opinion of the court, have a need for such good; or

''(II) by gift to such charitable or nonprofit institutions as, in the opinion of the court, have a need for such good, if such disposition would not otherwise be in violation of law, and if the manufacturer consents to such disposition; or

''(iii) order the return of the goods involved in the violation to the manufacturer upon the request of any interested party.

''(3) DAMAGES.—

''(A) IN GENERAL.—Subject to subparagraph (B), in any action under paragraph (1), the plaintiff shall be entitled to recover—

''(i) the actual damages suffered by the plaintiff as a result of the violation, and;

''(ii) any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages.

''(B) STATUTORY DAMAGES.—In any action under paragraph (1), the plaintiff may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits described in subparagraph (A), an award of statutory damages for any violation under this section in an amount equal to—

''(i) not less than $500 and not more than $100,000, with respect to each type of goods involved in the violation; and

''(ii) if the court finds that the violation threatens the health and safety of the public, not less than $5,000 and not more than $1,000,000, with respect to each type of good involved in the violation.

''(C) PROOF OF DAMAGES.—In establishing the violator's profits, the plaintiff shall be required to present proof only of the violator's sales, and the violator shall be required to prove all elements of cost or deduction claimed.

''(4) COSTS AND ATTORNEY'S FEES.—In any action under paragraph (1), in addition to any damages recovered under paragraph (3), the court in its discretion may award the prevailing party its costs of the action and its reasonable attorney's fees.

''(5) REPEAT VIOLATIONS.—

''(A) TREBLE DAMAGES.—In any case in which a person violates this section within 3 years after the date on which a final judgment was entered against that person for a previous violation of this section, the court, in an action brought under this subsection, may increase the award of damages for the later violation to not more than 3 times the amount that would otherwise be awarded under paragraph (3), as the court considers appropriate.

''(B) BURDEN OF PROOF.—A plaintiff that seeks damages as described in subparagraph (A) shall bear the burden of proving the existence of the earlier violation.

''(6) LIMITATIONS ON ACTIONS.—No civil action may be commenced under this section later than 3 years after the date on which

the claimant discovers or has reason to know of the violation.

''(7) INNOCENT VIOLATIONS.—In any action under paragraph (1), the court in its discretion may reduce or remit the total award of damages or award no damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that the acts of the violator constituted a violation.

''(h) ENFORCEMENT ACTIONS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Attorney General and the Secretary of the Treasury shall enforce the requirements of this section.

''(2) AGENCY DISCRETION.—The head of a department or agency of the Federal Government (including the Commissioner of Food and Drugs and the Secretary of Agriculture) may investigate any violation of this section involving a good that is regulated by a provision of law administered by that department or agency.

''(3) CUSTOMS SERVICE.—

''(A) IN GENERAL.—The United States Customs Service shall—

''(i) seize any good imported, reimported, or offered for import into the United States in violation of subsection (b)(4);

''(ii) promptly notify the manufacturer or duly appointed agent or representative of the seizure; and

''(iii) destroy or dispose of the goods in accordance with the procedures set forth in section 526(e) of Tariff Act of 1930 (19 U.S.C. 1526(e)).

''(B) VOLUNTARY DISCLOSURES.—In order to assist the United States Customs Service in carrying out its obligations under this paragraph, any domestic or foreign manufacturer may voluntarily record with the United States Customs Service—

''(i) its name and address;

''(ii) a description of its goods and product identification codes; and

''(iii) such other information as may facilitate the enforcement of this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 65 of title 18, United States Code, is amended by inserting after the item relating to section 1365 the following:

''1365A. Tampering with product identification codes.''.

(c) REGULATORY AUTHORITY.—Not later than 6 months after the date of enactment of this Act, the Attorney General, after consultation with the Secretary of the Treasury, the Commissioner of Food and Drugs, and the head of any other department or agency of the Federal Government that the Attorney General determines to be appropriate, shall issue such rules and regulations as may be necessary to implement section 1365A of title 18, United States Code, as added by this section.

SEC. 3. ATTORNEY GENERAL REPORTING REQUIREMENTS.

Section 2320(f) of title 18, United States Code, is amended—

(1) by striking ''of title 18'' each place that term appears;

(2) by inserting ''tampering with product identification codes (as defined in section 1365A),'' after ''involve''; and

(3) in paragraph (4), by inserting ''1365A,'' after ''sections''.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 6 months after the date of enactment of this Act.

SUPPORTERS OF THE ANTI-TAMPERING ACT OF 1999

MANUFACTURERS AND BUSINESS TRADE ASSOCIATIONS

Abott Laboratories
American Home Products Corp.
Allied Domecq Spirits & Wine (USA)
Bose Corporation
Bristol-Myers Squibb Co.
Chanel, Inc.
Compar
Converse Inc.
Cosmair
Estee Lauder, Inc.
Ford Motor Company
Giorgio
Givenchy
Intel Corporation
International Business Machines Corp.
John Paul Mitchell Systems
Joseph E. Seagram & Sons, Inc.
Matrix Essentials
Maytag Corporation
Motorola, Inc.
NEXXUS Products Co.
Nocopi Technologies, Inc.
Novartis
Novell, Inc.
O.C. Tanner Company
Optical Security Inc.
Oreck Corporation
Pfizer Inc.
Rolex Watch U.S.A., Inc.
SICPA
Stanley Works
The Proctor & Gamble Company
Warner-Lambert Co.
American Academy of Pediatrics
American College of Nurse-Midwives
American Beauty Association
American Health and Beauty Aids Institute
American Home Appliances Association
American Watch Association
Association of Women's Health, Obstetric and Neonatal Nurses
Coalition to Preserve the Integrity of American Trademarks
Consumer Electronic Manufacturers Association
Consumer Health Care Products Association
Cosmetic, Toiletry and Fragrance Association
Distilled Spirits Council of the United States, Inc.
Grocery Manufacturers of America
International Formula Council
National Association of Beverage Importers
National Association of Manufacturers
National Association of Neonatal Nurses
National Association of Wholesaler-Distributors
National Food Processors Association
Wine and Spirits Wholesalers of America, Inc.

CONSUMER GROUPS AND UNIONS

National Consumers League
PACE, Paper, Allied-Industrial, Chemical & Energy Workers International Union, AFL–CIO
Service Employees International Union, AFL–CIO

U.S. LAW ENFORCEMENT

Construction Industry's Crime Prevention Program of Southern California
Fraternal Order of Police
Ohio Patrolmen's Benevolent Association

THE ''ANTI-TAMPERING ACT OF 1000''—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The bill may be cited as the ''Anti-Tampering Act of 2000.''

SECTION 2. UNAUTHORIZED ALTERATION OF PRODUCT IDENTIFICATION CODES PROHIBITED

Subsection (a). In general

Section 2 of the bill amends Title 18 of the United States Code to create a new section 1365A prohibiting for all goods the intentional removal or alteration of product identification codes, as well as the affixing of fake codes, as follows:

Section 1365A(a). Definitions. New section 1365A(a) of Title 18 sets forth the definitions of the relevant terms used in new section 1365A. By definition, the prohibitions contained in the bill would not apply to the ultimate user or purchaser of the good, to any hotel, restaurant or other provider of services that alters the packaging in order to make it available to the ultimate consumer, or any retailer or distributor who acquires a good for resale.

Under this subsection, the definition of product identification code includes any visible number, letter, symbol, marking, date (including an expiration date), or code that is affixed to or embedded in any good by which the manufacturer may trace the good back to a particular lot, batch, date of production or date of removal. It specifically excludes (1) copyright management information conveyed in connection with copies or phonorecords of a copyrighted work or encryption information, (2) any or all other codes or markings on the good, (3) a Universal Product Code, and (4) trademark or copyright notices, including notices that are affixed to, superimposed on or embedded in product identification codes.

Section 1365A(b). Prohibited Acts. Section 1365A(b) sets forth the activities that are prohibited. It seeks to target and prohibit each phase of the decoding process—the act of decoding, the affixing of fake codes, and the distribution of the decoded or falsely coded product. The bill includes a knowledge standard that applies throughout the decoding to distribution process.

Specifically, this subsection prohibits the intentional alteration or removal of any visible product identification code. It also prohibits the intentional affixing of any fake or simulated code upon any good, label, container, packaging, or component thereof. The prohibition does not apply to the original manufacturer or the final consumer. This subsection further prohibits the importation, re-importation, exportation, sale, offering or holding for sale, distribution, or brokering of goods or components thereof whose product identification codes have been altered, concealed, removed or falsified.

In addition, this subsection prohibits selling, offering for sale, or knowingly permitting the sale at flea markets of certain products, including baby food, infant formula, and other products covered by the Federal Food, Drug, and Cosmetic Act, except by authorized representatives of the manufacturer or distributor.

Section 1365A(c). Applicability to Goods Held in Free Trade Zones. Section 1365A(c) extends the prohibitions against decoding and false coding to all goods held for sale or distribution in interstate or foreign commerce, including goods held in Customs bonded warehouses and free trade zones.

Section 1365A(d). Exclusions. The bill excludes from section 1365A the act of affixing genuine Universal Product Codes, security tags or other legitimate pricing or inventory codes that can be removed without damaging the product identification code. It also excludes from section 1365A certain types of repackaging activities. The bill will permit the removal of shipping containers and the repackaging of goods for the purpose of selling the goods in different quantities. The exception would apply only if each retail item retains its original product identification code, the repackaging is in full compliance with all applicable laws and regulations, and the new package includes a label stating that the good has been repackaged and containing the name of the repacker.

Section 1365A(e). Criminal penalties. Section 1365A(e) imposes criminal penalties on

any person who knowingly and willfully engages in decoding violations. This subsection imposes fines pursuant to the schedule of fines set forth in Title 18. A person violating the Act could be imprisoned up to one year for the first offense; up to 5 years if the value of the goods exceed $10,000; up to 10 years if the violation threatens public health and safety; up to 20 years if the violation results in bodily injury; and up to life imprisonment if a death results from the violation. If there are subsequent violations, the bill imposes twice the term of imprisonment that would otherwise be imposed.

Section 1365A(f). Injunctions and Impounding, Forfeiture, and Disposition of Goods. This section authorizes the court in its discretion, upon motion of the United States, to grant injunctive relief to prevent or restrain the alleged violation, and impound goods that the court has reasonable cause to believe are involved in the violation. This section also requires the court upon conviction to order the forfeiture of any goods involved in the violation and either the destruction, disposal or return of the goods involved.

Section 1365A(g). Civil Remedies. Section 1365A(g) provides consumers and manufacturers who are injured or threatened with injury with a civil right of action against persons who knowingly engage in decoding activities.

Paragraph (2) further authorizes the court at its discretion to issue injunctions, and to impound the goods in the custody of the defendant. As part of a final judgment or decree, the court may order the destruction, disposal or return to the manufacturer of the goods involved in the violation of this section. The goods may also be delivered to a government agency or provided as gifts to charitable institutions, if the manufacturer consents to the disposition.

Paragraph (3) sets forth the civil damages available to persons injured or who can demonstrate the likelihood of injury by violations of the Act. These damages include actual damages and profits, or, upon election by the plaintiff, statutory damages in an amount not less than $500 and not more than $100,000 for each type of goods involved in the violation. Available statutory damages are increased to not less than $5,000 and not more than $1,000,000 in cases in which the violation threatens the health and safety of the public. In addition, paragraph (5) allows the civil plaintiff to seek treble damages in the event of repeat violations made within 3 years of the original violation. Paragraph (7) also authorizes the court to reduce or eliminate the total damages award, or award no damages, if the violator sustains the burden of proving, and the court finds, that the violator was not aware and had not reason to believe the acts of the violator constituted a violation.

Paragraph (4) provides that the court in its discretion may award the prevailing party its costs and attorneys' fees.

Paragraph (6) imposes a three-year statute of limitations on the filing of a civil action. The limitation begins running from the date on which the claimant discovers or has reason to know of the violation.

Section 1365A(h). Enforcement actions. Section 1365A(h) requires the Attorney General and Secretary of Treasury to enforce the requirements of this new section of Title 18. It also authorizes the head of a department or agency of the Federal Government (including the Secretary of Agriculture and the Commissioner of the Food and Drug Administration) to investigate alleged violations involving goods regulated by their respective agencies.

This section also requires Customs Service officials to seize decoded products, notify the manufacturer of such seizure, and destroy or dispose of such goods. In order to facilitate this Customs seizure, the manufacturer would be permitted to record with the Customs Service any relevant information concerning product identification codes.

Subsection (b). Conforming amendments

Subsection (b) makes a conforming amendment to Title 18 to include the title of new section 1365A in the table of sections for chapter 65 of Title 18.

Subsection (c). Regulatory authority

Subsection (c) of the bill requires the Attorney General, after consultation with the Secretary of the Treasury, the FDA Commissioner, and the head of any other department or agency of the Federal Government the Attorney General determines appropriate, to issue regulations implementing new section 1365A of Title 18 within six months of enactment.

SECTION 3. ATTORNEY GENERAL REPORTING REQUIREMENTS

Section 3 of the bill requires the Attorney General to include in his or her reports to Congress on the business of the Department of Justice all actions taken by the Department regarding product decoding.

SECTION 4. EFFECTIVE DATE

Section 4 of the bill states that the bill will become effective six months after enactment.

Mr. LEAHY. Mr. President, I am joining forces with my good friend Senator HATCH on a Judiciary Committee bill that would prohibit improper tampering with product identification codes.

Manufacturers code their products in order to protect their consumers and to assist law enforcement in investigating consumer complaints, as well as in conducting recalls of tampered products. These codes assist the manufacturer and law enforcement in tracing goods back to a particular lot, batch or date of production. They include batch codes, expiration dates, lot numbers, and other information that one can typically see imprinted on the bottom or side of most products.

This product identification codes are extremely important in terms of product recall. There were over 250 product recalls last year—including two recent product recalls, one of ready-to-eat diet shakes and the other regarding the recall of 7,000 cases of infant formula. Also, product codes were of great help regarding the Tylenol poisonings of 1982 and the contaminated strawberry incident in Michigan in which school children became ill.

Forensic experts have used product identification codes in investigating numerous crimes including the bombing of the World Trade Center in New York City. Sometimes product codes are used to exonerate the innocent. For example, the product codes in the batteries involved in the Olympic Park, Atlanta, bombing helped exonerate the security guard, Richard Jewell, under suspicion in that case.

Product codes have been fraudulently altered regarding medicines, fertility drugs, and even bulk frozen shrimp. This makes it very difficult to trade back these products and to determine their safety. This bill addresses those concerns.

This bill contains significant improvements over a version introduced in the other body some time ago. Wholesalers were worried that they could not repackage goods—together into ''sale baskets''—to be sold at discount prices. This bill permits the resale of products at discounted prices. Each individual item would have to keep the original code but the prices could be changed depending on competitive market forces.

It is important that manufacturers not be able to control prices by operation of this bill. Consumers interested in bargains need to be able to get the best bargain they can get. This bill does not prevent the reselling of overstocked, or other, goods to discount retailers.

The bill also makes clear that any innocent alterations of product identification codes are not subject to the criminal provisions.

The bill contains a provision unrelated to product identification codes which I want to discuss for a moment. The bill prohibits at flea markets the sale of baby food, infant formula, or similar products made for consumption of children under three years of age. It also prohibits the sale of drugs, medical foods, cosmetics, and medical devices as defined in the Federal Food, Drug and Cosmetic Act at flea markets unless the seller keeps for public inspection written documentation identifying the seller person as an authorized representative of the manufacturer or distributor of the food, drug, device, or cosmetic.

This appears to be a reasonable policy but I am very interested in the views of my colleagues on this matter as there may be other ways to achieve the goals of these flea market provisions. I intend to work closely with the Committee Chairman, Senator HATCH, and my other colleagues regarding this bill.

ADDITIONAL COSPONSORS

S. 282

At the request of Mr. MACK, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 282, a bill to provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978.

S. 285

At the request of Ms. COLLINS, her name was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 353

At the request of Mr. GRASSLEY, the name of the Senator from Michigan