

S. 3197. A bill to amend the Child Nutrition Act of 1966 to increase the minimum amount available to States for State administrative expenses; to the Committee on Agriculture, Nutrition, and Forestry.

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

S. 3198. A bill to provide a pool credit under Federal milk marketing orders for handlers of certified organic milk used for Class I purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THOMPSON:

S. 3199. A bill to amend section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide for a user fee to cover the cost of customs inspections at express courier facilities; to the Committee on Finance.

By Mr. KERREY (for himself, Mr. SANTORUM, Mr. MOYNIHAN, Mr. GRASSLEY, and Mr. BREAUX):

S. 3200. A bill to amend the Social Security Act to provide each American child with a KidSave Account, and for other purposes; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. COCHRAN, and Mr. MOYNIHAN):

S. 3201. A bill to rename the National Museum of American Art; considered and passed.

By Mr. BIDEN:

S. 3202. A bill to amend title 18, United States Code, with respect to biological weapons; to the Committee on the Judiciary.

By Mr. HATCH:

S. 3203. A bill to make certain corrections in copyright law; to the Committee on the Judiciary.

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S. 3204. A bill to make certain corrections in copyright law; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mrs. FEINSTEIN):

S. 3205. A bill to enhance the capability of the United States to deter, prevent, thwart, and respond to international acts of terrorism against United States nationals and interests; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. BINGAMAN, Mr. LEVIN, Mr. CONRAD, and Mr. REID):

S. Res. 371. A resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to honor sculptor Korczak Ziolkowski; to the Committee on Governmental Affairs.

By Mr. LOTT (for Mr. GRAMS (for himself and Mr. BROWNBACK)):

S. Res. 372. A resolution expressing the sense of the Senate with respect to United Nations General Assembly Resolution 1322; to the Committee on Foreign Relations.

By Mr. LUGAR (for himself, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. WARNER, Mr. MOYNIHAN, Mr. ROBB, Mr. COCHRAN, Mr. KERREY, and Mr. MILLER):

S. Res. 373. A resolution recognizing the 225th birthday of the United States Navy; to the Committee on Armed Services.

By Mrs. MURRAY (for herself and Mr. WARNER):

S. Res. 374. A resolution designating October 17, 2000, as a "Day of National Concern About Young People and Gun Violence"; to the Committee on the Judiciary.

By Mr. LUGAR (for himself, Mr. DODD, Mr. HELMS, Mr. DEWINE, and Mr. GRAHAM):

S. Res. 375. A resolution supporting the efforts of Bolivia's democratically elected gov-

ernment; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. Res. 376. A resolution expressing the sense of the Senate that the men and women who fought the Jasper Fire in the Black Hills of South Dakota should be commended for their heroic efforts; considered and agreed to.

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

S. Con. Res. 150. A concurrent resolution relating to the reestablishment of representative government in Afghanistan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. AKAKA (for himself and Mr. LEVIN):

S. 3190. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protection, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

WHISTLEBLOWER PROTECTION ACT

Mr. AKAKA. Mr. President, as the ranking member of the Federal Services Subcommittee, I am pleased to introduce legislation to amend the Whistleblower Protection Act, WPA, one of the cornerstone of our nation's good government laws. Enacted in 1989, the WPA is intended to protect federal employees from workplace retaliation when disclosing waste, fraud, or abuse. The law was passed unanimously in 1989, and strengthened through amendments in 1994, again with unanimous support of both houses of Congress. I am joined today by Senator LEVIN, who was a primary sponsor of the landmark 1989 Act and the 1994 amendments.

A key goal of the Whistleblower Protection Act was to close the loopholes that had developed under prior law. Back in 1978, Congress passed the Civil Service Reform Act, which included statutory whistleblower rights that elevated certain disclosures to absolute protection due to their public policy significance. The 1978 Act protected "a" disclosure evidencing a reasonable belief of specified misconduct, with certain listed statutory exceptions—classified or other information whose release was specifically barred by other statutes. Despite statutory language, the Federal Court of Appeals, the Merit Systems Protection Board, and the Office of Special Counsel—all created in 1978 to investigate and adjudicate the WPA—appeared to interpret the law as discretionary rather than absolute.

This removed the law's foundation. Congress, in 1978, had intended to create absolute categories of protection to end the inherent chilling effect in constitutional balancing tests that required employees to guess whether they were covered by the First Amendment. Congress sought to eliminate the confusion by resolving the balance in

favor of free speech rights for serious misconduct listed in the statute. Unfortunately, the Federal Circuit and administrative agencies did not respect this mandate and created loopholes based on factors irrelevant to the public, such as whether an employee had selfless motives or was the first to expose particular misconduct.

As a result, a cornerstone of the Whistleblower Protection Act was to close these loopholes that arose under prior law by amending protection of "a" disclosure to "any" disclosure which meets the law's standards. The purpose was to clearly prohibit any new exceptions to the law's coverage. Only Congress has that authority. Again, however, in both formal and informal interpretations of the Act, loopholes continued to proliferate.

Congress responded to this reluctance to abide by congressional intent through the passage of the 1994 amendments. The Governmental Affairs Committee report on the amendments rebutted prior interpretations by the Federal Circuit, the Merit Systems Protection Board, and the Office of Special Counsel that there were exceptions to "any." The Committee report concluded, "The plain language of the Whistleblower Protection Act extends to retaliation for 'any disclosure,' regardless of the setting of the disclosure, the form of the disclosure, or the person to whom the disclosure is made."

I am pleased to note that since the enactment of the 1994 amendments, both the Office of the Special Counsel and the Merit Systems Protection Board generally have honored congressional boundaries. However, the Federal Circuit continues to disregard clear statutory language that the Act covers disclosures made to supervisors, to possible wrongdoers (Horton v. Dept. of Navy 66 F.3d 279, 1995), or as part of their job duties. (Willis v. Dept. of Agriculture, 141 F.3d 1139, 1998).

In order to protect the statute's cornerstone that "any" lawful disclosure evidencing significant abuse is covered by the Whistleblower Protection Act, our bill would codify the repeated and unconditional statements of congressional intent and legislative history. It would amend sections 2302(b)(8)(A) and 2302(b)(8)(B) of title 5, U.S.C. to protect any disclosure of information. This would be without restriction to time, place, form, motive or context, made to any audience unless specifically excluded in section 2302(b)(8) by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, which the employee or applicant reasonably believes evidences any violation of any law, rule, or regulation, or other misconduct specified in section 2302(b)(8). These include gross waste, gross mismanagement, abuse of authority, or a substantial and specific danger to public