

I would like to describe a terrible crime that occurred November 5, 1994 in Laguna Beach, CA. A gay man was attacked by two men yelling anti-gay slurs. The assailants, Donald Nichols, 18, and an unnamed 16-year-old boy, were charged with robbery and assault with a deadly weapon in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

LIFT THE HOLD ON S. 1499

Mr. KERRY. Madam President, I would like to submit for the RECORD a letter to our majority leader, Senator DASCHLE, regarding my request to hold all non-judicial nominations that come before the Senate until all holds are lifted on S. 1499, the American Small Business Emergency Relief and Recovery Act of 2001. I want to make sure that my colleagues are aware of what I am doing and why.

As I just mentioned, my actions have everything to do with emergency assistance for small businesses. They are literally dying in the aftermath of the terrorist attacks on September 11. They badly need access to affordable financing and management counseling until business returns to normal, and the administration's approach is not adequately helping those who need it.

Senator BOND and I introduced S. 1499 on October 4 to address the needs of small businesses trying to hold on in the aftermath of the terrorist attacks. For almost 2 months, emergency legislation with 63 sponsors has been blocked from being considered because the administration and two Republican Senators have chosen to put holds on legislation rather than debate the bill and cast a vote.

Today there is an article in the Miami Herald that says, ". . . [there aren't] any objections to having the Kerry-Bond bill come to the floor for a debate as long as the Administration's and the Small Business Administration's concerns were aired." That implies that we haven't given them a chance to express their concerns and to work with us to pass this bill, when we have.

We went to great efforts to work with SBA, Senator KYL and his staff, and the administration. This has gone on long enough. I have not placed a hold on non-judicial nominees in haste. I do it because I have no alternative. Small businesses need assistance, the administration's approach isn't adequate to meet the needs of those businesses, and Senator BOND and I have a sensible approach to reach them. I ask my colleagues to lift their holds on the bill, let us debate the bill, and let us vote.

Mr. President, I ask unanimous consent that a copy of my letter to Senator DASCHLE be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, December 12, 2001.

Hon. TOM DASCHLE,

Majority Leader, United States Senate, Washington, DC.

DEAR MR. LEADER: As you know, Senator Bond and I have introduced and are trying to gain Senate passage of S. 1499, the "American Small Business Emergency Relief and Recovery Act of 2001." This legislation, supported by 63 Senators, would provide emergency and immediate financial assistance to small businesses around the country who are suffering tremendous financial loss following the terrorist attacks of September 11, 2001. More specifically, the bill would leverage \$360 million in federal dollars to make available \$25 billion in loans and venture capital to ailing small businesses. The bill has widespread support in the business community, and is endorsed by 36 groups concerned with the financial health of small businesses including the US Chamber of Commerce, the National League of Cities, the US Conference of Mayors and the National Restaurant Association.

Despite the widespread and bipartisan support for this legislation, Senator Kyl continues to block its consideration by the Senate. Yesterday, Senator Kyl noted his concerns are based in large part on objections raised by the Administration. Senator Bond and I have attempted to negotiate with Senator Kyl and the Administration so that an agreement could be reached to move this legislation. However, it has become increasingly clear that Senator Kyl and the Administration are not interested in negotiating our differences. Rather, they are interested in delaying consideration of this important relief interminably—"running out the legislative clock" at the expense of the thousands of small businesses who are finding it more and more difficult to keep their doors open without the relief they so desperately need in these difficult economic times.

For this reason, and regrettably, I have come to the conclusion that, having tried to negotiate in good faith, my only remaining option is to demonstrate, conclusively, that under no circumstances will we back away from our commitment to small businesses. To bring Sen. Kyl and the Administration back to the negotiating table in earnest, I would like to place a hold on all non-judicial executive nominations that may come before the Senate. It is my hope that this hold will be short-lived, as it will lead to more serious negotiations and ultimately Senate consideration of S. 1499. However, I am prepared to keep this hold in place until the Senate considers our bill. A simple yes or no vote on this important relief for small businesses is not too much to ask, and I hope that our Republican colleagues in the Senate will at long last allow us the opportunity to make good on our promise to help struggling businesses nationwide.

Thank you for your prompt attention to this matter.

Sincerely,

JOHN F. KERRY.

THE USA PATRIOT ACT OF 2001

Mr. BENNETT. Madam President, I rise to offer some guidance to the Secretary of the Treasury on the regulatory authority assigned to him by the Congress with the recent enact-

ment of H.R. 3162, "The Patriot Act of 2001."

As a member of the Senate Banking Committee, I authored an amendment to that legislation's anti-money laundering title, title III, the "International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001," which was included in the final legislation as signed by the President at Sec. 311. My amendment directs the Secretary of the Treasury to promulgate regulations defining "beneficial ownership of an account" for purposes of Section 5318A and subsections (i) and (j) of Section 5318 of the Bank Secrecy Act. I would like to offer some guidance to the Secretary of the Treasury concerning the Secretary's determination of "reasonable" and "practicable" steps for domestic financial institutions to ascertain the "beneficial ownership" of certain accounts as provided in Section 311 of the bill.

Section 311 of this legislation authorizes the Secretary of the Treasury to require domestic financial institutions and agencies to take one or more of five "special measures" if the Secretary of the Treasury finds that reasonable grounds exist to conclude that a foreign jurisdiction, a financial institution operating outside the United States, a class of international transactions, and/or types of accounts is of "primary money laundering concern."

The second measure would require domestic financial institutions to take such steps as the Secretary determines to be "reasonable" and "practicable" to ascertain beneficial ownership of accounts opened or maintained in the United States by a foreign person, excluding publicly traded foreign corporations, associated with what has been determined to be a primary money laundering concern.

In both Section 5318A(b)(1)(B)(iii) and (b)(2), the Secretary is given the authority to require steps the Secretary determines to be "reasonable and practicable" to identify the "beneficial ownership" of funds or accounts. Neither the phrase "beneficial ownership" nor the phrase "reasonable and practicable steps" is defined in the legislation, and there is no single accepted statutory or common-law meaning of either phrase that the legislation is meant to incorporate.

During the 106th Congress, the issue was dealt with by the House Banking Committee, which favorably reported H.R. 3886, which contained provisions nearly identical to those contained in Section 311 of H.R. 3162, but without the mandatory rulemaking requirement which my amendment added this year. Both in the 106th Congress and again this year, the concern has been expressed that this lack of statutory definition conceivably could result in a rule or order under either Section 5318A(b)(1)(B)(iii) or (b)(2) that requires financial institutions to identify all beneficial owners of funds or of an account, which in turn might result in some circumstances in clearly excessive and unjustifiable burdens. As the